



**Bradford Diocesan
Academies Trust**

FAQ - STAFFING ACADEMIES

SECTION 1 – BECOMING A MULTI ACADEMY TRUST

1. What is a multi-academy trust (MAT)?

A MAT is one academy trust, which governs a group of schools through a single set of members and board of directors. Each establishment can continue to have a local governing body to which certain functions are delegated from the board of trustees. The MAT will ultimately be accountable and responsible for the performance of schools in its trust. Bradford Diocesan Academies Trust (BDAT) will be the new employer of the staff, not each individual governing body of each academy.

SECTION 2: STAFFING

1. What is TUPE?

The Transfer of Undertakings (Protection of Employment) Regulations 2006.

2. Who employs staff within an Academy?

The Multi Academy Trust is the employer of staff working in the Academy. Although academies have the legal status of independent schools, they are largely funded by the Education and Skills Funding Agency (ESFA).

3. What is the purpose of the Regulations?

To protect the employment rights of employees when either a) the “undertaking” (a business or organisation) in which they are employed is transferred to another employer or b) they are part of an organised group dedicated to providing a service to a particular client, and it is decided that the service will in the future be provided by a different employer. Here we are concerned with the former rather than the latter. The regulations are intended to safeguard employees’ rights when the business or organisation in which they are employed changes hands.

4. How are staff protected where the employer changes?

The Regulations are based on European legislation, which protects employees where businesses or organisations are transferred or sold to protect employee’s continuity of service, contracts of employment and trade union recognition. The Government takes a positive view of the TUPE Regulations, and where an Academy replaces an existing establishment directly the TUPE regulations will apply to provide for employees to have a right to transfer to the new Academy.

5. Which staff will potentially transfer across to the Academy?

Employees employed wholly or substantially in the establishment immediately prior to the transfer, automatically become the employees of the new employer. The proposed date for transfer is

November or December 2018

6. Does the establishment have to hold consultation with staff?

Under employment legislation the current employer of establishment staff will need to conduct a TUPE consultation with all staff (both teaching and support staff) and the relevant unions as part of the staff transfer process.

7. Will the Trade Unions be consulted in relation to TUPE?

Yes. Your current employer (establishment) must inform all recognised independent trade unions of the transfer arrangements and consult them on any measures, which the establishments intend to take before the transfer.

8. Staff on Fixed Term Contracts

TUPE covers employees, whether part-time, temporary or fixed term, providing their employment does not come to an end before the transfer date.

9. How will the transfer affect your terms and conditions of employment?

The TUPE Regulations protect pay and terms and conditions of transferred employees. Your present hours of work, rate of pay, annual leave entitlement, sick pay or maternity entitlement and other current conditions of employment will be preserved. Your contract of employment at the date of transfer will automatically transfer to the new employer.

10. Can my pay, terms and conditions be changed by the new employer?

One of the main effects of the regulations is that where there is a transfer of an undertaking, contracts of employment with the previous employer transfer to the new employer as if the contracts had been made with the new employer. BDAT is then obliged to observe all the obligations of the predecessor schools owed to transferring employees.

Contracts of employment of transferring employees cannot be terminated nor changed by reason of the transfer alone. Changes can only be made if they are justified for clear economic, technical or organisational reasons, known as ETOs.

BDAT has no immediate plans to change staff terms and conditions but this may be considered at some point in the future as part of the harmonisation process.

11. Will there be any measures applied prior to transfer?

There is currently no intention to apply any measures prior to transfer. If any arise we will ensure staff and trade unions are made aware.

12. What will happen to my pension?

The DfE policy states that all staff employed by Academies should automatically fall within the Teachers' Pension Scheme or the Local Government Pension Scheme on the same basis.

13 If the establishment becomes an Academy, who takes responsibility for the pension arrangements of support staff?

Support staff in your establishment fall within the Local Government Pension Scheme (LGPS). As the employer, the Academy would be responsible for meeting the employer contribution. Academies are obliged to offer LGPS membership to staff. Unlike the TPS, there are a number of component schemes within LGPS, with the Local Authority acting as pension administrator. The employer contribution rate may differ in the future from that payable by the schools currently. Academies mandatorily fall within the TPS and LGPS but it is open for an individual member of staff to opt out of the TPS or LGPS, as the case may be, if they preferred to make other pension provision for themselves.

In terms of the support staff discretionary elements of the LGPS this will be determined by MAT. For support staff who are not currently in the LGPS when you transfer to MAT you will automatically be put into the LGPS and therefore you will need to opt out of the scheme again.

14. How will future pay and conditions be determined?

Academies are like independent schools in that they are not bound by the School Teachers' Pay and Conditions Document (STPCD) or by guidance on support staff pay and conditions issued by the National Joint Council for Local Government Services (NJC). Instead Academies and their staff are able to negotiate pay and conditions arrangements to meet the needs of the Academy and its pupils. The STPCD and NJC guidance may provide important starting points for Academies in determining their own arrangements.

The STPCD will become a contractual rather than a statutory entitlement for relevant employees following the transfer to BDAT.

For support staff your statuses once you have transferred over under TUPE remain static. You will therefore continue to be employed under the NJC Terms and Conditions of Service but **any future changes** to the national terms and conditions which are changed via a collective agreement with the nationally recognised unions will not automatically apply to you at BDAT.

This also applies to support staff national pay awards. A decision will be taken at the time by the BDAT Board whether to apply any revised local or national pay award agreements by the NJC.

15. What happens to my previous service?

Under the TUPE regulations, continuity of employment is preserved and employees' current period of continuous service will transfer to the new employer, in this case the MAT.

16. Applying for a post with a new employer

Contractual Provisions (Support Staff) - For Support Staff due to a Local Authority being covered by the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order (Amendment) Order 2010, continuity of employment is protected and can also be used to calculate sickness and annual leave etc for support staff.

Please Note none of the above apply in the event of a natural break: - Any break in your service that lasts for more than a complete week will constitute a break in your continuous service for all contractual and statutory entitlements. A “week” means a week ending with Saturday.

17. Do I have to transfer to BDAT?

No. As part of the consultation process, individuals with concerns about the transfer will be given the opportunity to discuss their concerns and receive a response. Employees can object to the transfer of their employment but this will have the effect that they will be treated as if they have resigned their employment with effect from the transfer and therefore it is recommended that any employee considering objecting seeks advice from a trade union representative, solicitor or the Citizen’s Advice Bureau.

In Summary:- It should be noted that employees objecting to the transfer of their employment and whose employment terminates for that reason will be deemed to have resigned and not to have been dismissed, therefore your contract of employment with the School would cease at midnight the day before conversion.

As there will be no dismissal in law in such circumstances, individuals objecting to the transfer will not be entitled to claim unfair dismissal or receive a redundancy payment.

18 Can the new employer dismiss me because of the transfer?

TUPE does not rule out the possibility of dismissal before or after the transfer, if there is an economic, technical or organisational reason entailing changes in the workforce. If such a reason is the cause of a dismissal it is capable of being a fair and justified reason for a dismissal and in this case, the usual redundancy procedure will apply.

19 Will the Trade Unions be consulted in relation to TUPE

Yes. We must inform all recognised independent trade unions of the transfer arrangements and consult them on any measures intended before the transfer.

20. Will the Trade Unions be recognised by the Academy Trust?

Where there is an existing establishment and TUPE applies, any trade union recognition agreements applying to transferring staff will also transfer as do any collective agreements in force at the time of transfer. BDAT will also recognise Trade Unions.



**Bradford Diocesan
Academies Trust**

21. What information is transferred over to the Academy from a staffing perspective?

Under the Transfer of Undertakings (Protection of Employment) Regulations 2006, Regulation 11 - the local authority and the governing body must provide the MAT with the following information:-

- a) A schedule of staff employed to work wholly or substantially at the Academy – including – Personal Details, Employment Particulars, Pay/Performance, pensions, leave
- b) Details of any active disciplinary/capability or grievance proceedings concluded within 2 years of the date of notification
- c) Details of any active or potential legal proceedings between the individual and the Authority
- d) Personal files including copy of individual written statements of particulars of employment
- e) Sickness and absence records for the immediately preceding 2 year period
- f) Payroll and pension records
- g) Policies and procedures adopted by the schools which form part of the contract of employment including:-
 - a) Support staff - National Joint Council for Local Government Services (Green Book).

22. What happens to new staff employed with BDAT?

TUPE does not safeguard rights for new recruits appointed to posts in the Academy. It is a protection only for transferring employees.

23. Sickness Absence Pay – Teachers - Staff who are internally promoted

Internal promotions for staff who TUPE'd into BDAT will be appointed on the Burgundy Book sick pay scheme.

24. Sickness Absence Pay – Teachers - Newly Appointed Staff

The academy trust will appoint new staff on the Burgundy Book sick pay scheme.

25. Will the academy offer childcare vouchers?

The current voucher scheme will operate.

26. Will there be a Cycle to Work Scheme?

Yes, as part of the BDAT benefits scheme

27. Will there be a Health Care Scheme?

There is a BDAT Staff Benefits Scheme which gives access to reduced costs healthcare schemes and other benefits.

28. Is there any intention to change the pay date?

No, BDAT will pay staff on the 26th of each month as per your current pay regime.

29. How will appraisal and performance be managed?

Performance and appraisal procedures will remain as they are in the short term but in the longer term, the MAT will look to harmonise these across the Trust.

30. Is the MAT intending to change the school holidays and lengths of terms?

Schools joining BDAT will follow the current local authority Schools published term dates calendar. If this situation were to change, it would be subject to measures and consultation with unions, staff and parents.

In the event of you having any further questions regarding staffing, please do not hesitate to contact any of the following:

Your Headteacher of SBM

BDAT Staff

Your trade union