

**Minutes of the first meeting of the Fair Deal Working Group held in the
Third Floor Conference Room at Local Government Building, Smith
Square, London, SW1 on Thursday 2 October 2014**

<u>Attendees:</u>	Chris Megainey	DCLG (Chair)
	Terry Edwards	LGA
	Jeff Houston	LGA
	Brian Strutton	GMB
	Jon Richards	Unison
	Dominic King	BSA
	Fiona Farmer	Unite
	Nicholas Corney	The Compass Group
	Jon Hands	DCLG
	Lynda Jones	DCLG
	Gary Meyler	DCLG

1. The Chair welcomed attendees who introduced themselves.
2. The Chair explained that the pension protection 'A Fair Deal for Staff Pensions', where compulsorily transferred public sector staff move to a new employer, would be delivered by retaining the member in the pension scheme they were in before the transfer. There were specific issues for local government and the local government pension scheme ("the Scheme"). These included the implications for the extant Best Value Authorities Staff Transfers (Pensions) Direction 2007 which could not remain as currently drafted and could not be amended to widen the scope beyond best value authorities. The purpose of the group would be to work through the issues so that the new policy could be implemented through the Scheme's regulatory framework.
3. DCLG explained that there were some legal concerns about whether it was possible to mandate certain employers in the Scheme through Scheme regulations and Counsel opinion had been sought. Opinion was that, on balance, the Public Service Pension Act 2013 did provide powers broad enough to make regulations to implement the new way of delivering the pension protection but to proceed to do so through the Scheme regulations was not without risk.
4. There was a discussion about which organisations should be compelled to participate in the Scheme, and the implications should they not wish to do so. Also, what would happen should a new provider have to leave the Scheme (e.g. insolvency), which took away the transferred member's protection.
5. The Compass Group attendee highlighted issues at procurement level where pensions issues were not considered at an early stage. Also, where the current contractor offered transferring staff a broadly comparable scheme and whether certification of broad comparability could continue. He observed that large suppliers were comfortable with participating as an admitted body in the Scheme.

6. DCLG clarified that it had been agreed by Ministers that higher and further education institutions would not be covered by the new Fair Deal policy as they were not covered previously and are regarded as private sector bodies.

7. Employees who would be covered by the new Fair Deal policy were considered to be:

- those eligible for the scheme and compulsorily transferred from local authorities and other employers listed on the face of the scheme regulations (and designated where applicable);
- employees of other bodies that have elected to participate in the scheme (admitted bodies); and
- employees who were working for local and other best value authorities where the function was contracted out under TUPE arrangements and who are subsequently transferred as part of a re-tendering exercise.

8. After discussion, it was agreed that identifying those bodies in scope required more work. For example, Ministers had agreed that higher and further education institutions would be excluded from the policy. The LGA recommended that the work of this group should take note of separate discussions on LGPS deficits, being held at the Shadow Board Sub-Committee on cost management and contributions.

9. Unite asked for clarification about whether the new Fair Deal code or proposals in the LGPS would apply to maintained schools with governing bodies. They also sought a connection between Fair Deal and machinery of government changes. DCLG noted these points.

11. LGA raised the position of wholly-owned companies participating in the Scheme as 'designating' bodies who could simply fail to designate staff to avoid the pension protections. There was also a discussion about "Teckal"¹ exemption and implications for the pension protection. The LGA suggested using the Teckal definition so that organisations can be captured that way.

12. Process: when the implementation issues were resolved, it would be necessary to seek Ministerial agreement for the way forward. Cabinet committee approval would be needed given the impact on a range of cross-government bodies. Amendments to the Scheme regulations require a statutory consultation and it was considered that the full 12 weeks would be essential. The aim was to provide and issue a consultation document by the end of the year. At the same time, the Group would consider the future of the

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Pensions Direction and scope for amendment or revocation and how this could be achieved.

13. Action: LGA and DCLG agreed to work on a paper setting out the scope of pension protection in the Scheme to be shared with the Group and other issues including the Pensions Direction in the next weeks.

WPP
27 October 2014