

EAST HERTS COUNCIL

LOCAL JOINT PANEL – 11 OCTOBER 2004

REPORT BY THE SECRETARY TO THE STAFF SIDE

6(A) PENSION PROTECTION OF TUPE TRANSFEREES

RECOMMENDATION – that East Herts Council provide additional protection for TUPE transferees, by requesting that contractors seek admitted body status to the Local Government Pension Scheme (LGPS) and that this requirement will also apply in respect of all future transfers of the undertaking.

1.0 Background

1.1 Under TUPE regulations accrued pension rights in the scheme provided by the former employer are protected. However, future pension rights after the date of transfer are excluded from the regulations.

1.2 DETR guidance on Best Value (Circular 10/99) sets out the government's view that staff transferring should receive at least a comparable pension arrangement. In addition, the LGPS (Amendment Regulations) (effective since January 2000) enables contractors and other external providers to seek 'Admitted Body Status' to the LGPS. This is clearly the best possible option for transferred staff.

2.0 Staff Issues

2.1 Staff affected by the TUPE transfers both in Car Parks and Leisure Services are needless to say extremely anxious about their future. They are aware that they have some protection with regard to terms and conditions of service but are particularly concerned about their future pension rights.

2.2 UNISON, having been invited recently to interview shortlisted bidders for the Parking Enforcement contract were keen to hear among other things the response to questions on pensions. This was in fact

encouraging in that two out of the three bidders were happy to apply for admitted body status, if East Herts requested it.

3.0 Future Transfers

3.1 Once a service has been contracted out, there is a strong chance that when the contract comes up for renewal that the undertaking will be transferred to a new employer. This is particularly true in the leisure industry where frequent changes of contractor are common. In order to protect staff further, it is necessary to extend the request for admitted body status beyond the term of the first contract to all future transfers. Without this, the protection awarded in the initial transfer counts for nothing.

4.0 Conclusions

There are many employees of East Herts Council who will soon be affected by TUPE transfers. UNISON would like to ensure that they have the maximum protection possible, on transferring to a new employer. Through no choice of their own they will be facing a stressful process of change and uncertainty. Although there is no legal requirement for a new employer to apply for admitted body status to the LGPS, East Herts is permitted to request that the contractor does so. By making this request, staff will be assured of a decent pension in retirement just as they would if they remained in the employment of the Council, many of whom are loyal and long serving and will have contributed to the LGPS for many years.

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