

## TUPE FAQs

**Subject: Additional FAQs submitted via the Unions**

**Date: 2<sup>nd</sup> December 2024**

## PENSIONS

**Q – Is there a provision for admittance to the death-in-service scheme whilst the NHS pension application is in progress?**

**A –** We advise you to contact NHS Pensions directly to understand the impact during any pension transfer. NHS pension contact details are as follows: <https://www.nhsbsa.nhs.uk/member-hub/contact-nhs-pensions-members>

**Q – We need someone to speak with NHS Pensions to provide this information – If EMED are unwilling to find out this information from NHS Pensions, then EMED surely need to provide another pension scheme to staff and tell the staff what death in service scheme is in the provider they are willing to work with? If NHS Pensions are not giving staff the clarity – it's not fair to put this on staff to find out.**

**A –** EMED are not unwilling to find out this information, we have asked the question and are awaiting a reply from NHS Pension scheme. In the meantime, you may wish to seek independent pension advice. We will apply for continued NHS Pensions access as previously explained at our meetings.

**Q – While the pension application is ongoing, what happens if somebody passes away, retires or takes ill-health retirement?**

**A –** We advise you to contact NHS pensions directly to understand the impact during any pension transfer. NHS pension contact details are as follows: <https://www.nhsbsa.nhs.uk/member-hub/contact-nhs-pensions-members>

**Q – EMED needs to set up a separate pension to cover these eventualities and tell the staff what these pensions provide. Because if EMED will not be supporting NHS Pensions then an alternative needs to be provided to the staff from the offset. This is according to ACAS regarding workplace pensions and TUPE – The new employer must provide a reasonable alternative scheme, and match employee contributions up to a maximum of 6%. Early Retirement Terms can transfer to the new employer so EMED should be able to answer this.**

**A –** We are fully aware of the requirements under TUPE and as explained at our meetings we will place you into an alternative pension scheme if our application for you to remain in the NHS pension scheme is not successful. In the event that this is the case, we will match employee contributions up to a maximum of 6 %. EMED however are committed to ensuring this process is actioned and as such will complete the application process according to the NHSBSA instructions and requirements. Suppose our application is not accepted, as confirmed above. In that case, EMED will place you in our Defined Contribution scheme with us matching your current Employee contribution rates up to a maximum of 6%.

Unfortunately, we are unable to advise or answer any specific questions relating to the NHS pension scheme or early retirement terms. We continue to suggest that you to contact NHS pensions direct to understand the impact during any pension transfer. NHS pension contact details are as follows: <https://www.nhsbsa.nhs.uk/member-hub/contact-nhs-pensions-members>.

**Q – During the pension application process, how would an employee obtain pension information if a mortgage application is being made?**

A – We advise you to contact NHS pensions directly to understand the impact during any pension transfer. NHS pension contact details are as follows: <https://www.nhsbsa.nhs.uk/member-hub/contact-nhs-pensions-members>

**Q – Can EMED provide a copy of their Alternative Scheme Pensions Certificate?**

A – EMED has the appropriate certification and EA codes for each pension direction. Several NHS pension scheme members employed by EMED Group have transferred under previous TUPE transfers. We also submit annual pension returns and contribution certificates.

**Q – Have NHS staff who have TUPE'd to EMED previously remained in their NHS Pension or transferred to a new Pension Scheme? If it's the latter – what is the scheme?**

A – Yes, they have remained in the NHS pension scheme and for us to process our application further we need to be set up with EA codes to which we have in place in readiness for any applications we wish to make.

**Q – Does EMED's pension meet the requirements contained in Section 28 of the Act and Part 7A of the Regulations.**

A – Yes, our pension offering is in line with pension requirements, and as advised, is the NEST scheme set up by the Government.

**Q – If the NHS pension application is not accepted, can EMED confirm the process for any contributions and where they are held? What employer and employee % contributions will be taken while the application is processed?**

A – All employer and employee contributions will continue to be deducted at the current rate, as confirmed on the TUPE data from SCAS. EMED will hold them during the interim period and while NHS pensions confirm acceptance. If the application is not accepted, we will write to each employee and confirm the options available, which will depend on each circumstance when we correspond with you further.

**Q – If EMED deducts current pension contributions and holds the payment, where will it be held, and is it going into a pension scheme protected by the FCS?**

A – It will be held in our business bank account and not in another pension scheme until such time that the NHS Pension Scheme application is concluded

**Q – How long is the interim period?**

**A –** As previously advised this interim period may take anything from 6 months up to 2 years. The NHS Pension Scheme entirely dictates this process. However, EMED will take all steps to ensure any actions required of EMED are completed as promptly as possible.

**Q – What options are available if the application is not accepted?**

**A –** As advised previously, colleagues will be enrolled into a defined contribution scheme, or you may wish to opt out once auto-enrolment has taken place. You may also request that all of your employee contributions be refunded to you. Colleagues will be advised and given their options in the event this happens.

**Q – If the NHS Pension application is unsuccessful, are any additional provisions in place to support the difference in contributions?**

**A –** EMED Group offers an employer contribution match of up to 6% in line with the Fair Deal guidance. Employee contributions remain the employee's decision as long as the minimum contributions are made. Employees may wish to speak to NHS England directly or seek further independent financial advice.

**Q – How are they secure? Does the Bank Account have each employee's name on it? Will they see how much is in that account for them individually? What's the process to withdraw the money? Is the bank account protected for pensions? What's the interest rate? Why won't the interest rate go to the employees?**

**A –** All contributions taken from employees are in a secure 'holding position' and held by EMED in a business bank account which is only visible to a small number of the finance team. However, should an employee require details of what employer and employee monthly pension contributions are being taken, then this will be clearly displayed on your monthly EMED payslip from the date of transfer.

**Q – Can pension contributions be held by a third party during the application process?**

**A –** EMED pension funds are secure and are held in a separate bank account for this purpose.

**Q – What will happen to the interest that occurred while holding our pension contribution in your bank account?**

**A –** Our financial business accounts have negligible low interest rates. We forecast there will be very little to no interest accrued during this period. We strongly believe the NHS pension application will be completed as quickly as possible, and we continue to work closely with the relevant parties to support in making this happen.

**Q – As this is employees money going into this account, we have a right to see what the interest rate is on the account, will this be provided please?**

**A –** Our answer as above remains unchanged. However, should an employee require details of what employer and employee monthly pension contributions are being taken then this will be clearly displayed on your monthly EMED payslip from date of transfer.

**Q – Can EMED confirm that whoever is holding the ‘pension contributions’ is regulated by the FSA?**

**A –** As an organisation, we take managing finances and pension contributions very seriously, and as per our previous answer, all monies and pension contributions are held securely by EMED in our business bank account. EMED complies with all finance regulatory requirements and are externally audited annually.

**Q – Please can you confirm yes or no to the above question**

**A –** No we are not regulated by the FSA.

**Q – What would happen to pension contributions if EMED were to go bankrupt?**

**A –** We do not anticipate or have doubts about EMED’s financial stability, so consider this a safe interim measure during pension application processes.

**Q – What if EMED go bankrupt – what happens to the pension contributions in that bank account?**

**A –** Our answer is as above. We do not anticipate or doubt EMED’s financial stability, so consider this a safe interim measure during the pension application processes.

**Q – How many recent NHS pension applications have been successful so far at EMED Group?**

**A –** We are unable to confirm specific numbers, however only in exceptional circumstances will a pension not be suitable to continue with the NHS scheme, and if applicable, NHS will advise on the reasons.

**Q – Please can you provide the number of successful applications?**

**A –** A total of 209 employees that have TUPE’d across from 19 historic TUPE transfers before 2024 have been accepted and retained in the NHS pension scheme. One application was made earlier this year, which was recently accepted to remain in the NHS pension scheme.

**Q – Where can I find more information on the NEST pension scheme be sought?**

**A –** For more information, please visit [www.nestpensions.org.uk](http://www.nestpensions.org.uk) or <https://www.nestpensions.org.uk/schemeweb/memberhelpcentre/helpful-resources.html>

**Q – If an employee asks for their pension to be frozen would they then be able to join the NHS pension scheme if they continue their employment with EMED and EMED are successful in the application?**

**A –** Yes, in line with the scheme guidance given by NHS England and as long as they are on the TUPE ELI data and the eligibility is confirmed at the date of transfer.

**Q – Why are EMED having to make two applications (one for the BOB and Frimley contract and one for Sussex contract) as they claim to have managed TUPE transfers from NHS trusts before why is it taking time, and it is not automatic?**

**A –** This is an NHSBSA required process, therefore we have to follow as dictated by their process and requirements.

**Q – Colleagues at the age of 65, 66 plus who are making arrangements to take all their NHS pensions on 31st March would they be able to still transfer on their terms and conditions and AFC pay band to EMED? Also, can they take their 1995 scheme and carry on their same Terms and conditions?**

**A –** As per our provisional measures NHS banding levels will not transfer under TUPE and is currently a proposed intended measure of change from date of transfer which is 1<sup>st</sup> April 2025. Please seek further guidance and advice from NHS England directly regarding making arrangements to take all of your NHS Pension prior to date of transfer or alternatively seek independent financial advice. If you are planning to retire from 31<sup>st</sup> March 25 then this would be deemed as your last date of employment therefore automatic transfer under TUPE will no longer apply. If you decide to take your pension for other reasons, then please seek further advice from your SCAS HR team in regard to if you will still be eligible to transfer automatically under TUPE regulations.

**Q – Due to the pension monies being taken and held in the secure pot, would there be a tax liability on the monies or not?**

**A –** No, not while being held in the secure pot by our finance team.



## **BENEFITS / PAY**

**Q – Does EMED provide eye test vouchers or reimbursement for eye tests?**

**A –** Yes only for roles that undertake daily work/activity and are VDU users.

**Q – After the transfer date, will TUPE protect London / Fringe weightings?**

**A –** As confirmed by the ELI data from SCAS, any rates protected within a TUPE rate will be transferred.

**Q – Will new staff be eligible for London / Fringe weightings?**

**A –** No, this is an NHS provision only.

**Q – Will our London / Fringe weightings, protected under TUPE, be protected if an employee moves to a base where the payment is not applicable?**

**A –** Terms and conditions that are protected under TUPE and variances to contracts will be discussed on an individual basis.

**Q – After the transfer date, will homeworkers still receive Fringe payments in line with the current arrangement?**

**A –** If it is confirmed on the TUPE data received from SCAS, then it will continue.

**Q – Are EMED providing any provisions to support workers through the cost-of-living crisis?**

**A –** Our Colleagues can apply for a Blue light card, giving all employees access to discounts across high streets and other companies. We have an Employee Assistance Programme, which employees can access 24/7 and provide wellbeing and financial advice. We also have monthly engagement champion meetings to address any concerns and recommendations regarding the introduction of new initiatives to support our employees further.

**Q – Are you able us about pay rises? Will they be protected from falling below minimum wage in the future?**

**A –** We have already provided an overview of our annual pay review process and have advised that this review may or may not result in a pay rise each year. However, we continue to look at all colleague benefits, which complement a colleague's total reward package. EMED will, however, always comply with national minimum wage requirements.

**Q – Will we be paid for any Private Travel if our base location is moved further away from what we travel currently?**

**A –** We are currently waiting for SCAS to confirm the TUPE data information and for our Base locations to be fully confirmed once legal has finally been approved. Once we have this information, we will confirm further as part of our proposed intended measures of change process.

#### **EMED POLICIES**

**Q – How can staff view EMED policies and procedures before transfer?**

**A –** We will ask the SCAS HR Team to send us the policies you would like to view, and we will communicate further afterwards.

**Q –** Are you able to provide the basic policies and procedures?

**A –** A general confirmation of our policies will be provided once SCAS has established what contractual policies/local arrangements, in addition to the Agenda for Change terms and conditions, will transfer under TUPE and form part of our final measures, which will be supplied in the future. In the meantime, we can confirm that our company policies and procedures align with ACAS guidelines.

#### **VEHICLES**

**Q – Would staff have to pay the excess if a vehicle was damaged?**

**A –** This is currently being discussed at the Fleet Risk Committee; however, drivers currently pay no excess in the event of an accident.

**Q – Do we have an internal EMED points licence like they have an internal SCAS points licence?**

**A –** No we currently do not have this in place.

**Q – How will AdBlue be provided for vehicles?**

**A –** This can be ordered directly through the EMED fleet supervisor or Euro Car Parts.

**Q – How does EMED ensure that tyre pressure is maintained on vehicles?**

**A –** Tyre pressure gauges can be purchased and checked during the vehicle inspection. Most sites have compressors.

## STRUCTURE

**Q – Could you please clarify the structure for Team Leaders, as this currently differs from the staffing numbers in place?**

**A –** From the date of transfer, all TUPE staff will remain in their current role, including job title and shift pattern. If any changes are to be made in the future, then the appropriate consultation process will commence.

**Q – When will EMED be able to confirm which third-party suppliers are transferring to EMED's contract?**

**A –** All third-party providers will be reviewed as part of our own onboarding process. When due diligence has been completed with the providers, we will have an updated list.

**Q – Is EMED expecting to put any roles at risk of redundancy as part of the transfer?**

**A –** No. As part of our provisional measures, we have confirmed that we do not envisage placing any roles at risk of redundancy.

**Q – Will the transfer of additional staff from 3rd party suppliers lead to any further risk of redundancy at the point of the additional transfers?**

**A –** No, and as part of our provisional measures, we have confirmed that at this stage, we do not envisage putting any roles at risk of redundancy.

**Q – What is the training process for new ACAs joining EMED?**

**A –** When an ACA joins EMED, they are given a full induction plan, which involves a two-week structured process, including classroom training, equipment familiarisation and driving assessment.

**Q – What are the qualification levels for driving assessors?**

**A –** All driving assessors receive an in-house two-day course from our qualified ADI driver trainers, teaching them best practices and the details of driving assessments.

**Q – Can current driving assessors maintain their qualifications while working for EMED?**

**A** Yes, we do not renew this qualification, but we maintain updates when required.

## OTHER

**Q – Post transfer, will EMED supply tea, coffee, milk, and sugar in the bases?**

**A –** Yes, EMED will supply these.



**Q – The current arrangement allows employees to use any SCAS base for their meal break. Is there a similar arrangement in place through EMED?**

**A –** All colleagues can take their rest break at an EMED location, provided this is the most appropriate location for your required rest period.

We are looking forward to working with you all following the transfer on 1<sup>st</sup> April 2025.

**EMED Group**