
Employment Risk Matrix

Assessment of the Secondment, TUPE Transfer and 'Choice' Employment Models

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Strategy Unit**

(Continuing the work of the Centre for Public Services)

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The **European Services Strategy Unit** is committed to social justice, through the provision of good quality public services by democratically accountable public bodies, implementing best practice management, employment, equal opportunity and sustainable development policies. The Unit continues the work of the Centre for Public Services which began in 1973.

Employment Risk Matrix

Outsourcing via a transfer of staff effectively means that the employer is transferring a series of risks to their existing staff. TUPE transfers and the Best Value Code of Practice on Workforce Matters do not provide any guarantees. There is considerable change occurring in the pensions sector with private sector employers replacing final salary with money purchase schemes and a growing number of under-funded pension schemes.

There are basically three employment models if outsourcing or transfer is proposed:

- 1) Secondment in which staff remain employed by the public sector.
- 2) Transfer to a new employer under the TUPE regulations
- 3) A 'choice' model promoted by some private contractors which is a mix of secondment and transfer.

The European Services Strategy Unit has devised an Employment Risk Matrix which assesses the degree of changes in four categories of risk:

- Risk of changes to terms and conditions of service.
- Pensions arrangements (not covered by TUPE regulations).
- Risk of changes to staff consultation and representation.
- Risk of problems with secondment agreement.

The Risk matrix identifies and compares the levels of risk borne by employees in the secondment, TUPE transfer and 'choice' employment models. The 'choice' model is promoted by some private contractors as an alternative secondment model although it is significantly different from full secondment. The overall effect of the 'choice' model will depend on the proportion of staff that second and transfer and how this changes over the length of a contract. Private contractors expect the proportion of secondments to reduce considerably or to zero as the contract proceeds. This would mean that in the later part of a contract the risk profile in the 'choice' model would change and become similar to the transfer risk profile.

The Employment Risk Matrix Summary (Table 2) shows that 100% of the risks for the secondment model are in the none/low risk category compared to only 20% in the transfer model and 16% in the 'choice' model. The transfer model has 40% of the risk for employees in both the high and medium risk categories.

Employment Risks in Secondment, Transfer and 'Choice' Models

Risk	Secondment	TUPE Transfer	'Choice'
Risk of changes to terms and conditions of service			
Risk of changes to staffing levels after transfer without staff agreement.	No risk because of Change Control Procedure in Secondment Agreement	High risk Code of Practice on Workforce Matters does not prevent changes over time.	Medium risk Code does not prevent changes over time but will not affect seconded staff.
Risk of changes to terms and conditions of employment.	No risk as staff remain on local authority terms and conditions	High risk Code of Practice on Workforce Matters does not prevent changes over time.	Medium risk Code does not prevent changes over time but will not affect seconded staff.
Risk of not meeting annual pay award in full and on time	No risk	Low risk - Code of Practice on Workforce Matters should prevent it happening.	Low risk - Code should prevent it happening and will not affect seconded staff.
Risk of changes to the composition of pay and benefits such as holidays	No risk as staff remain on local authority terms and conditions	High risk Code allows contractor to change mix of pay, holidays and pension.	Medium risk Code does not prevent changes over time but will not affect seconded staff.
Risk of two-tier workforce developing	Low risk - only if large differences between transferees and seconded staff develop	High risk Staff on different terms and conditions could create two-tier workforce	High risk Staff on different terms and conditions could create two-tier workforce
Risk of no or inadequate redeployment	Low risk	High risk Not applicable therefore staff bear the risk	Medium risk Applicable only to transferred staff.
Risk of inadequate implementation of family friendly policies	Low risk	Medium risk	Medium risk Applicable only to transferred staff.

Risk	Secondment	Transfer	'Choice'
Risk of changes to pensions			
Risk of not remaining in Local Government Pension Scheme	No risk as staff remain on local authority terms and conditions	Medium risk Requires public sector to make it a condition of contract	Medium risk Requires public sector to make it a condition of contract
Risk of changes to quality and conditions of private company pension scheme	No risk as staff remain on local authority terms and conditions	Medium risk Code is 'permissive' with regard to defined benefit/final salary scheme	Medium risk
Risk of reduction in employer contribution and increase in employee contribution	No risk as staff remain on local authority terms and conditions	Medium risk Code is 'permissive' with regard to defined benefit/final salary scheme	Medium risk
Risk of closure of final salary scheme by private sector employer	No risk as staff remain on local authority terms and conditions	Medium risk Code is 'permissive' with regard to defined benefit/final salary scheme	Medium risk Many private companies closed final salary schemes.
Risk of changes to workplace conditions			
Risk of changes to trade union facility time	Low risk	Medium risk of demanding/imposing a reduction	Medium risk of demanding/imposing a reduction
Risk of changes to health and safety policies and practices	Low risk	Low risk	Low risk
Risk of changes to grievance and disciplinary procedures	Low risk	High risk as private sector has own procedures.	Medium risk Affects only transferred staff.
Risk of changes to equal opportunities policies and practices	Low risk	Medium risk in terms of degree of implementation.	Medium risk in terms of degree of implementation.
Failure to implement corporate policies and priorities	Low risk	Medium risk of some corporate policies not fully implemented.	Medium risk of some corporate policies not fully implemented.
Risk of loss of public service ethos	Low risk as staff remain council employees.	High risk - staff will be private sector employees.	Medium risk Mixture of private and public sector employees.

Risk	Secondment	Transfer	'Choice'
Risk of changes to staff consultation and representation			
Risk of lack of consultation with staff over improvement plans and reengineering proposals	Low risk because of Change Control Procedure in Secondment Agreement	Medium risk based on experience of PPP and outsourcing contract	Medium risk based on experience of PPP and outsourcing contracts
Risk of lack of consultation with staff in other departments	Low risk because of Change Control Procedure in Secondment Agreement	Medium risk based on experience of PPP and outsourcing contracts	Medium risk based on experience of PPP and outsourcing contracts
Risk of changes to working practices which have not been agreed with staff and trade unions	Low risk because of Change Control Procedure in Secondment Agreement	High risk based on PPP and outsourcing contracts.	High risk based on PPP and outsourcing contracts.
Risk of inadequate training	Low risk because of Change Control Procedure in Secondment Agreement	High risk based on PPP and outsourcing contracts.	High risk based on PPP and outsourcing contracts.
Risk of changes to the industrial relations framework	Low risk because of Change Control Procedure in Secondment Agreement	High risk based on PPP and outsourcing contracts.	High risk based on PPP and outsourcing contracts.
Risk of problems with secondment agreement			
Risk of secondment agreement failing	Low risk based on experience in other parts of the public sector	No risk – not applicable	Low risk based on experience in other parts of the public sector
Risk of legal challenge to secondment agreement re TUPE	Low risk based on experience in other parts of the public sector	No risk – not applicable	Low risk based on experience in other parts of the public sector
Risk of contractor seeking to reduce or terminate secondment	No risk – not applicable	No risk – not applicable	Medium risk if most staff transfer.

European Services Strategy Unit, 2006.

Table 2: Summary of Employment risk

Risk level	Secondment		Transfer		'Choice'	
	Number	%	Number	%	Number	%
None	9	36	3	12	0	0
Low	16	64	2	8	4	16
Medium	-	-	10	40	17	68
High	-	-	10	40	4	16
Total	25	100	25	100	25	100

European Services Strategy Unit, 2006.