New Fair Deal – MP letter

Dear MP

I write to express my deep concern regarding my (Teachers’ Pension/ Local Government Pension) and the lack of clarity on the application of New Fair Deal on Pensions to the prison education procurement process.

I am teacher working in prison education. I work for (Novus LTE/ Milton Keynes College Weston College) and my employer is a Further Education Corporation (FEC) established under the Further and Higher Education Act 1992.

As you may be aware, FEC’s were reclassified following the ONS review on 29 November 2022. The reclassification now confirms FEC’s in England as part of Central Government.

This has wide ranging significance in general terms for the sector and those reclassified FEC employers, however from my perspective, it has particular importance as three of the four largest prison education providers are also FEC’s and staff rightly have expectations about the protection of their public sector pensions, such as Teachers’ Pension Scheme (TPS), in any Transfer of Undertakings (TUPE) that has either taken place since 22 November 2022 or that fall under the proposed Prison Education Service (PES) contract.

I fully support my union’s campaign in this matter. I am a member of UCU:

[UCU - UCU prison educators: unlocking futures](https://www.ucu.org.uk/UnlockingFutures)

Our view is that New Fair Deal applies now and should apply going forward into the PES tendering process and beyond. To date neither the Ministry of Justice, the department responsible for the new PES, or HM Treasury, the department with responsibility for Fair Deal on Pensions, have confirmed its application.

The application of the New Fair Deal will not only protect my public sector pension it will also create a level playing field on costs and terms and conditions offered by prospective providers. The continued absence of confirmation regarding the application of the New Fair Deal creates deep uncertainty for staff and existing FEC providers and enables an unfair competitive advantage for any providers that do not.

One of the driving principles behind the introduction of New Fair Deal was to provide for the protection of government employee pensions and for transparency and fairness to staff and organisations bidding for government contracts.

I’m particularly mindful that in 2019, there was guidance issued by the Teachers’ Pension Scheme following a consultation with HM Treasury. This guidance expressly stated that the reason college employees were excluded from the provisions of New Fair Deal, was that colleges were not classified as part of the public sector. This exclusion has not applied since 29 November 2022 ONS reclassification.

You may be aware that there are now live examples under the DPS procurement process where government employees have been transferred to private companies and may well have suffered a loss of protected pension rights. To my knowledge no guidance has been issued on the application of Fair New Deal in this TUPE process.

Looking ahead, unless the application of New Fair Deal is confirmed without further delay, there is a very real prospect that this unacceptable situation will be a fundamental flaw in the retendering of the new prison education contract, which has yet again been delayed.

This will have a significant and detrimental impact on the provision of prison education across the prison estate, which is already suffering from high levels of recruitment and retention issues, it will undermine the professional status of prison educators, and undoubtedly lead to a deterioration in industrial relations.

I urge you to intervene in this matter and clarify the application of New Fair Deal as a matter of urgency.

The new Westminster Labour government has promised a fair deal for working people. The continued failure to confirm the application of New Fair Deal is unacceptable when tested against manifesto commitment.

Can you please ask and submit in writing to the relevant minister the following question at the next Treasury and Justice parliamentary sessions:

When will HM Treasury confirm the application of New Fair Deal for Pensions so that Prison education staff who work for prison education providers that are FE corporations, enjoy the same public sector pension protection as other government workers when they are subject to Transfer of Undertakings (TUPE) as part of the new Prison Education Service contact.

Yours sincerely