

Sustainable workforce

Sustainable Public Transport Framework
Policy development

For discussion – not government policy

September 2023

Introduction

The proposed operational policy on workforce transfers and improved terms and conditions gives effect to the SPTF objective of a sustainable public transport workforce.

In August 2022, the Government announced the establishment of the Sustainable Public Transport Framework (SPTF) as a new policy and legislative framework for the planning, procurement, and delivery of public transport services.

The SPTF comprises four key objectives:

- public transport services support mode shift from private motor vehicles, by being integrated, reliable, frequent, accessible, affordable, and safe
- employment and engagement of the public transport workforce is fair and equitable, providing for a sustainable labour market and sustainable provision of public transport services
- well-used public transport services reduce the environmental and health impact of land transport, including by reducing reliance on single occupancy vehicles and by using zero emission technology
- provision of services supports value-for-money and efficiency from public transport investment while achieving the first three objectives.

The SPTF is being given effect through the recent passing of the Land Transport Management (Regulation of Public Transport) Bill and the development by Waka Kotahi of enabling and supporting operational policy and guidance.

To achieve the legislated objectives of a sustainable PT workforce, draft operational policy has been developed, in collaboration with sector participants, to achieve the Government's following specific reform outcomes:

- bus drivers have the opportunity to maintain employment if there is a change of operator
- the substantive terms and conditions of bus drivers are not negatively impacted by a change of operator
- the terms and conditions of the bus driver workforce are improved to increase recruitment and retention.

To inform the development of operational policy, Waka Kotahi considered practices in other jurisdictions and input from a technical working group comprising representatives from

- public transport authorities (PTAs – AT and GWRC)
- operators (Tranzit and Kinetic)
- the workforce (represented by the Tramways and AWUNZ unions).

Independent legal advice and reference to the Vulnerable Workers provisions in the Employment Relations Act 2000 have also been considered in the development of the operational policy.

Purpose and process

The purpose of this document is to seek feedback from the sector on the proposed operational policy to help achieve a sustainable public transport workforce.

This document sets out proposed operational policies to give effect to a continuous improvement regime for the terms and conditions of the bus driver workforce and for the establishment of a regime for the transfer of employees from an outgoing to an incoming operator in the case of a change in operator.

It is noted that the primary focus of the operational policy described in this document applies to the bus sector, however it is intended that the policy will be expanded, with appropriate adjustments, to other modes in due course.

Waka Kotahi is now seeking feedback from the public transport sector on the proposed operational policies and have included engagement questions with key policy areas to prompt feedback. Due to the inter-related nature of the elements comprising the workforce operational policy, it is recommended that the document be read in full prior to answering the engagement questions.

The engagement period will remain open until **3 November 2023**. Please submit feedback by responding to the questions in this document and emailing your response to sptf@nzta.govt.nz.

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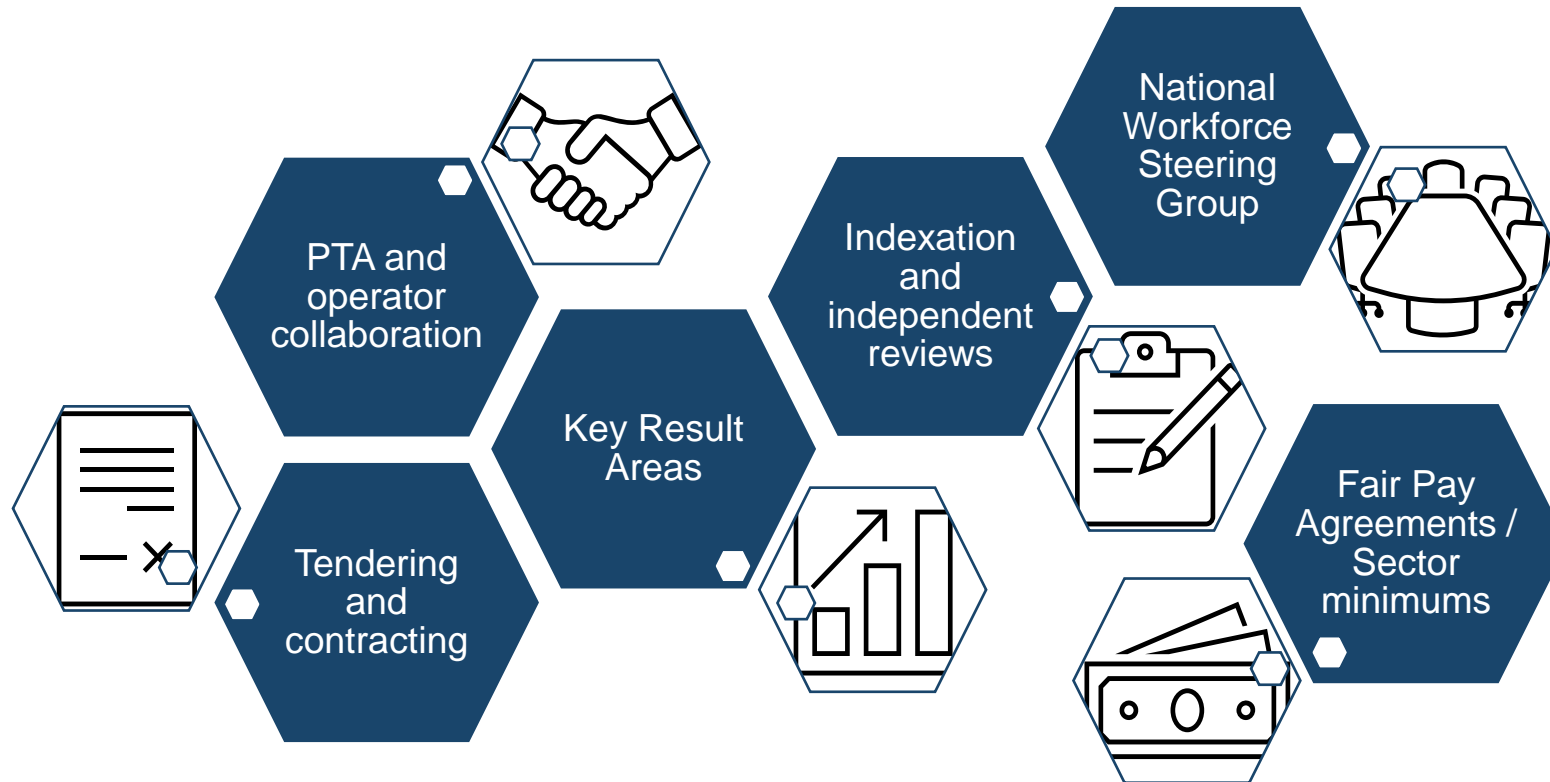
1. Framework for improving terms and conditions
2. Workforce transfers



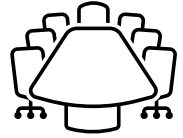
Framework for improving terms and conditions

Improving term and conditions

The operational policy to improve terms and conditions of the bus driver workforce involves a framework of elements requiring collaboration between sector participants.



1) National PT Workforce Steering Group



An oversight body will be established to ensure the conditions for a sustainable workforce continue to be met.

- a) A National PT Workforce Steering Group (NPTWSG) will be established as a permanent cross-sectoral group established to oversee and help foster a growing and sustainable public transport workforce in New Zealand.
- b) The NPTWSG is the successor oversight body to the Bus Driver Terms & Conditions Steering Group.
- c) The purpose of the NPTWSG is to:
 - i. Facilitate collaboration and communication for the purposes for enhancing the sustainability of New Zealand's public transport workforce.
 - ii. Monitor workforce trends and engagement, including current and future needs, challenges, and opportunities.
 - iii. Proactively identify and highlight issues that may affect the sustainability of the public transport workforce and recommend responses.
 - iv. Serve as an advisory forum and make recommendations to relevant stakeholders, including government entities.
 - v. Initially focus on the bus sector, with focus expanding to other modes in due course.
- d) The NPTWSG will meet quarterly with the first meeting scheduled to take place on 19 September 2023.
- e) Proposed membership:
 - i. A senior official from Waka Kotahi as Chair
 - ii. A senior official from each of Waka Kotahi, Te Manatū Waka (MoT) and the Ministry of Education
 - iii. A senior officer from each of Auckland Transport, GWRC, Environment Canterbury and one other PTA to be determined
 - iv. A senior representative of the Bus & Coach Association
 - v. A senior representative of the Council of Trade Unions
 - vi. At a later date, representatives from the rail and ferry sectors

Engagement questions

- 1.1 To what extent do you consider that the proposed establishment of a National PT Workforce Steering Group will contribute to meaningful and ongoing improvement in the terms and conditions for the bus sector workforce?
- 1.2 To what extent does the proposed purpose of the NPTWSG reflect the requirements of the sector?
- 1.3 Do you have any comments on the proposed membership of NPTWSG?
- 1.4 Do you have any other comments or suggestions?

2) PTA and operator collaboration



More explicit guidance will be provided to enable PTA and operator collaboration focused on improving workforce conditions.

- a) Recent uplifts to bus driver wage rates, funded jointly by Government, PTAs and operators have set a new baseline for base wage rates.
- b) With sector agreement that base wage rates are now at an appropriate level to enable full employment to be achieved, responsibility is now on Operators to recruit and retain sufficient drivers, with a return to enforcement of performance KPIs to ensure the appropriate incentives are in place to recruit and retain drivers.
- c) When reviewing and implementing network and service improvements, PTAs and Operators must jointly consider the impacts that such changes will have on driver conditions, e.g. providing sufficient recovery time at termini to enable toilet breaks, minimising the use of split shifts, etc.
- d) PTAs and operators are to undertake regular joint business planning which must consider workforce Key Result Area measures and include the opportunity to seek input from, and co-design initiatives with, the workforce to enable the continual improvement in workforce outcomes over time, e.g. reducing the percentage of split shifts.

Engagement questions

- 2.1 To what extent do you consider that, in combination with other policy elements, the proposed requirements for PTA and operator collaboration will contribute to meaningful and ongoing improvement in the terms and conditions for the bus sector workforce?
- 2.2 Do you have any other comments or suggestions?

3) Workforce Key Result Areas

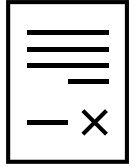


A set of workforce Key Result Areas will be established to enable the early identification of trends in workforce metrics that may lead to future challenges.

- a) The establishment of a set of nationally consistent ‘lead’ indicator Key Result Areas (KRAs) related to employee retention and engagement to provide early signals of employee retention risks.
- b) The purpose of the KRAs is to identify trends in key areas that may signal future issues with workforce retention and to inform actions to address potential issues.
- c) Financial incentives or abatements will not be applied to workforce KRAs.
- d) In circumstances of negative trends or KRA results falling below agreed target levels, stakeholders are to jointly identify and prepare remediation plans.
- e) Proposed KRAs include:
 - i. Workforce establishment versus attrition reporting
 - ii. Workforce safety reporting
 - iii. Workforce engagement measures (from surveys, see below)
- f) To encourage operators and PTAs to continually work together to improve workforce engagement metrics, KRA results will be published by operator and benchmarks established.
- g) Employee engagement survey:
 - i. Nationally consistent employee engagement survey to be undertaken by all operators annually
 - ii. Survey questions and measures to be jointly designed by a sector working group
 - iii. To include questions and measures on matters affecting employee satisfaction with their working conditions that are both within and outside the control of the employer (such as road conditions, on-route driver facilities, bus stop accessibility) to inform decision making and appropriately targeted remediation plans.

Engagement questions

- 3.1 To what extent do you consider that, in combination with other policy elements, a set of nationally consistent ‘lead’ indicator Key Result Areas (KRAs) related to employee retention and engagement will contribute to meaningful and ongoing improvement in the terms and conditions for the bus sector workforce?
- 3.2 Do you have any comments on the proposed set of KRAs?
- 3.3 Do you have any comments on the proposed employee engagement survey?
- 3.4 Do you have any other comments or suggestions?



4) Tendering and contracting

More explicit guidance will be provided to ensure PTAs incorporate appropriate workforce protection measures into future tendering processes and operating contracts.

- a) The operational policy on workforce transfers will require PTAs and operators to enact specific provisions that protect employment and employee's substantive terms and conditions in the event of a change in employer following a tender process.
- b) It is expected that Fair Pay Agreements will underpin sector minimum wage rates and other terms and conditions, however in the absence of a Fair Pay Agreement, PTAs are to specify minimum wage rates (and other terms and conditions considered necessary) as agreed by Waka Kotahi in future contracts and tender processes.
- c) To encourage the sector to continue to drive improvements in workforce outcomes, a greater emphasis will be placed on workforce specific criteria in tender evaluations, such as track record on employment matters (e.g. health & safety, retention and engagement KRAs) and planned initiatives (e.g. T&Cs offered to workforce, training & development).
- d) To assist PTA understanding of underlying labour costs and to enable PTAs to assess differences in labour costs between tenderers, PTAs will require more detailed information on underpinning labour costs in tender submissions.
- e) To further aid understanding of labour costs and the workforce environment, PTAs are to also specify greater transparency and reporting of aggregate employee terms and conditions (amongst other factors per SPTF objectives) in future PT operating contracts.
- f) Waka Kotahi to provide guidance to PTAs on the above matters and to ensure greater consistency in treatment of other key provisions in contracts that have the potential to impact workforce outcomes, for example, managing the impact on operator costs because of legislative or regulatory changes related to workforce and other matters.

Engagement questions

- 4.1 To what extent do you consider that, in combination with other policy elements, the proposed requirements in the tendering and contracting of PT services will contribute to meaningful and ongoing improvement in the terms and conditions for the bus sector workforce?
- 4.2 Do you have any comments on the proposed set of requirements?
- 4.3 Do you have any other comments or suggestions?



5) Indexation and independent reviews

The Waka Kotahi bus indexation mechanism will be reviewed to better align to labour cost movements and an independent review of sector conditions will be undertaken periodically.

- a) Waka Kotahi will review its bus indexation mechanism to ensure that it more appropriately matches the sector's needs across all bus operations cost categories, and appropriately adjusts for required movements in labour costs that will help achieve the objective of a sustainable workforce.
- b) An independent review will be undertaken every three years (or more frequently as determined by the NPTWSG) of bus driver terms and conditions and other external considerations to ensure that the overall employment conditions for the sector continue to contribute to a sustainable PT workforce.
- c) The independent reviews will be commissioned and overseen by the NPTWSG who will consider recommendations from the review and implement any necessary actions.

Engagement questions

- 5.1 To what extent do you consider that, in combination with other policy elements, a review of Waka Kotahi's bus indexation mechanism and the implementation of independent reviews of the effectiveness of bus driver terms and conditions will contribute to meaningful and ongoing improvement in the terms and conditions for the bus sector workforce?
- 5.2 Do you have any other comments or suggestions?

Workforce transfers

Introduction and approach

The proposed operational policy on workforce transfers will govern the process for employees to transfer employment in the event of a change of operator following a tender process.

Operational policy development process

In conjunction with the sector working group, Waka Kotahi undertook the following process to develop the proposed operational policy on workforce transfers.

- Research commissioned on workforce transfer practices in other jurisdictions
- Focus areas identified
- Spectrum of options identified for each focus area
- Options tested against a set of assessment principles
- Preferred options identified
- Preferred options tested and refined against transfer scenarios and across focus areas
- Package of options identified to form proposed overall approach

We are now seeking feedback from the wider bus sector on the proposed approach.

The proposed approach will be refined on the basis of feedback received and detailed policy developed.

The operational policy will be given effect through the PT Plan and incorporated where appropriate in the Procurement Manual.

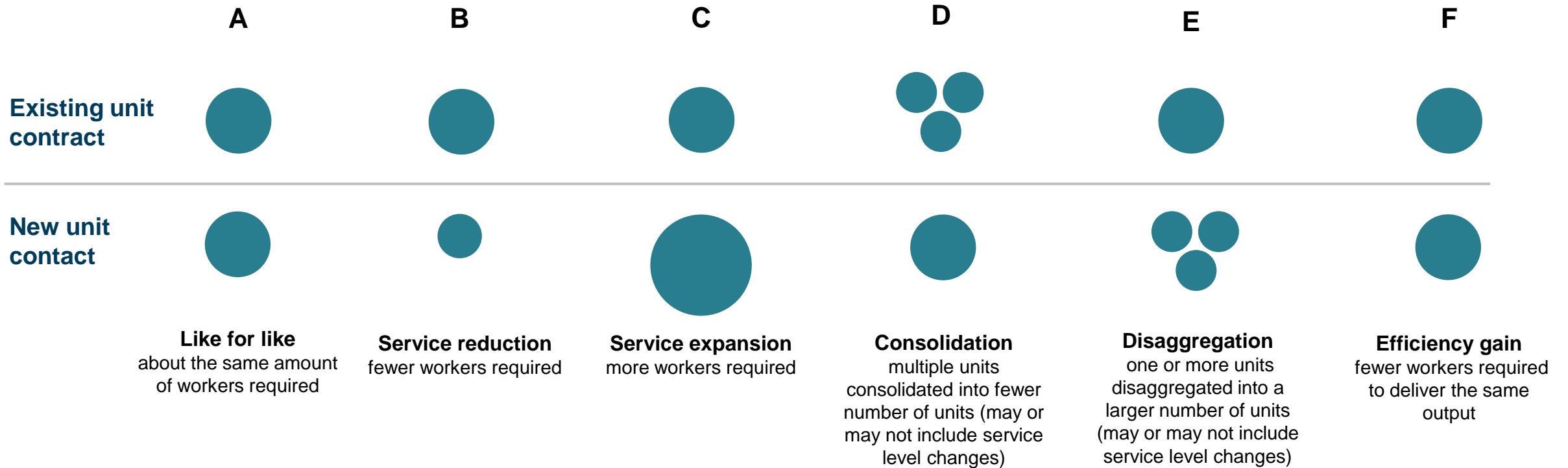
Option assessment principles

The following set of assessment principles were applied to select the preferred options in each focus area:

- Does the option protect or improve substantive employment terms & conditions for workers?
- Does the option enable fair and equitable employment for workers?
- Does the option help build a robust labour market to sustain and expand public transport services?
- Does the option enable a smooth transition for workers and operators?
- Is the option as simple as it can be?
- Is the option efficient?

Transfer scenarios

Options were tested against the following potential tendering outcome scenarios:



Workforce transfers – operational policy summary

Transfer regime applies to:

Bus drivers, who spend...



50% or more of their hours driving on any units that are under contract with the PTA, and



30% or more of their hours driving on any service associated with the unit(s) in question



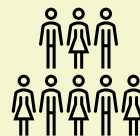
Other employees may be nominated by the incumbent, however these are not considered eligible employees for the purposes of incoming operator's obligation to make offers



[More detail...](#)

Incoming operator:

Must make valid offers to all eligible employees

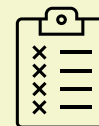


OR

Must make valid offers to (at least) the number of employees nominated as its staffing requirement in its tender response (if its staffing requirement is less than the number of eligible employees)



May decline to make an offer to an employee for limited specific grounds (where an employee does not meet minimum requirements)



[More detail...](#)

Employee:

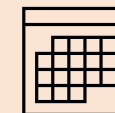
May choose to stay with existing employer (if work is available)



Is not eligible for redundancy compensation (if any) if they decline incoming operator's offer and existing employer does not have future work available



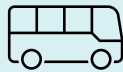
When transfer to new employer, will retain accrued entitlements (e.g. accumulated leave) and recognition of continuous service



Workforce transfers – operational policy summary

Valid offer comprises:

Nature of work is substantively similar



Home depot location is no more than 30km from employee's current home depot



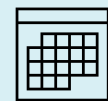
Hours of work are substantively similar



Substantive terms & conditions are similar or better



Continuous employment (years of service) and accrued entitlements are recognized



[More detail...](#)

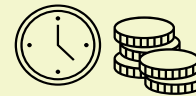
Substantive terms & conditions:

The higher of:

- employee's existing base rate
- OR
- PTA specified base rate



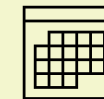
PTA specified penal rates and/or allowances



Employee's existing KiwiSaver contributions



Employee's existing leave entitlements

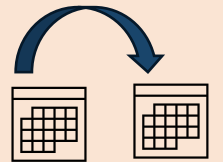


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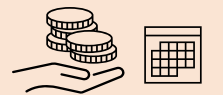
Accrued entitlements:

Entitlements transferred:

- Annual leave
- Long service leave
- Days in lieu
- Sick leave
- Parental leave



Employee may choose to have all or some holiday entitlements paid out on transfer, with incoming operator recognising remaining entitlement levels



Outgoing employer pays value of recognised holiday entitlements to incoming operator



[More detail...](#)

Workforce transfers – operational policy summary

Pre-tender activities:

Incumbent...

- agrees to Transfer Regime with PTA and ensures employment agreements reflect Transfer Regime
- responds to PTA's Request for Employee Information (RFEI) by advising the PTA of the eligible employees and providing the PTA with anonymised employee information
- updates PTA with any changes to supplied employee information in lead-up to and during tender
- communicates process and provides regular updates to workforce
- prevented from making undue employment changes 6 months prior to tender date and between the release of the tender and the new contract start

[More detail...](#)

During the tender process:

PTA publishes anonymised details of eligible employees, employment agreements and agreed Transfer Regime in tender docs.

Tenderers agree to Transfer Regime as a condition of participation in the tender.

Tenderers nominate required staffing requirements in tender responses.

Tenderers price labour component of tender on basis of Transfer Regime provisions and substantive T&Cs for transferring employees.

[More detail...](#)

Post tender:

Incoming operator undertakes recruitment in accordance with Transfer Regime and makes offers to eligible employees.

Outgoing operator, incoming operator and PTA jointly agree training and on-boarding process for transferring employees.

Outgoing operator pays value of holiday entitlements accrued to transferring employees to incoming operator.

[More detail...](#)

6) Eligible employees



Eligible roles

- a) Mandatory eligibility for transfers in the event of a change in operator will apply to those employees whose principal role is bus driving, that is, those employees who spend 50 percent or more of their rostered hours driving buses.
- b) Eligible bus drivers include:
 - i. Trainee bus drivers
 - ii. Employees who are on full-time, part-time and fixed term contracts
 - iii. Employees who are on extended leave, comprising:
 - i. Parental leave
 - ii. Leave without pay in which there is an agreed return to work date that is within 3 months of contract startand who participate in the incoming operator's selection process.
- c) Note that eligibility for transfer doesn't preclude employees choosing to remain with their existing employer if the existing employer has future work available and makes an offer that is acceptable to the employee.
- d) The incumbent operator may nominate other employees whose ongoing employment is identified as at risk to participate in the process and, if agreed to by the incoming operator, those employees will become eligible employees.
- e) Other 'non-eligible' employees may apply to the incoming operator directly, however, the incoming operator must make offers to eligible staff in the first instance (up to nominated staffing requirements) before making offers to candidates outside the Transfer Regime process.

Criteria for eligibility

- f) Bus drivers who, in the six months prior to the PTA's pre-tender Request for Employee Information (RFEI):
 - i. spent 50 percent or more of their rostered hours driving on any units that are under contract with the PTA, and
 - ii. spent 30 percent or more of their hours driving on any service associated with the unit(s) being tendered.
- g) The purpose of the eligibility criteria is to identify employees who could be impacted by a change in operator and to be made available to receive offers from an incoming operator.
- h) The purpose of Criteria 1 is to exclude from eligibility those employees who spend the majority of their time driving on non-PTA contracted services, such as Ministry of Education and charter services.
- i) The purpose of Criteria 2 is to identify those employees who spend some time driving on services associated with the unit(s) being tendered, but excludes those who may only drive on those services occasionally, and acknowledges that, due to the inter-lining of rosters, employees may not spend the majority of their time allocated to any individual unit.
- j) The criteria also address the potential for the composition of future units being tendered to be different to existing units.

[Cont...](#)

6) Eligible employees (cont.)



Rationale for proposed option

- k) The proposed option for limiting mandatory eligibility to bus drivers was selected on the basis that the option best aligns with the selection principles, in particular by targeting the most critical frontline roles that impact the public the most, targeting the roles that are the most consistent across operators and is relatively simple to define and administer.
- l) The inclusion of the proposed eligibility criteria acknowledges that drivers may be involved in non-PTA services and may drive routes across multiple units and therefore may not spend their time driving on any individual unit.

Other options considered but not preferred

- m) Other options considered by the sector working group in relation to eligible occupations included:
 - i. The proposed scope for Fair Pay Agreements (FPA): Bus Driver / Bus Operator / Bus Cleaner / Bus Service Worker / Bus Refueller
 - ii. The proposed scope for FPAs + mechanics & supervisors
 - iii. All non-management staff

- n) Other options considered by the sector working group in relation to eligibility criteria included:
 - i. All staff where any amount of their time is associated with the unit(s) being tendered
 - ii. Only staff where 75 percent or more of their hours are associated with any units the incumbent operator has under contract with the PTA
 - iii. Only staff where 100 percent of their hours are associated with any units the incumbent operator has under contract with the PTA

Engagement questions

- 6.1 To what extent do you agree with the mandatory eligibility for transferring employees to be limited to bus drivers? Any other suggestions or feedback on eligible occupations?
- 6.2 To what extent do you agree with the criteria for determining which bus drivers are eligible for transfer?
- 6.3 Are there any aspects of the eligible employee definitions that require further explanation or clarification, and if so what are these?
- 6.4 Do you have any other comments or suggestions?

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7) Existing employer obligations



Obligations on existing employer

- a) The existing employer must ensure that all eligible staff are available to receive offers to transfer.
- b) The existing employer must ensure that its employment agreements include an employment protection provision that sets out the basis of the transfer arrangement.
- c) The existing employer must clearly communicate the options available to its employees in the event of a transfer arrangement so that employees can make an informed choice, i.e. whether there will be available positions with the existing employer and the terms & conditions for those positions.
- d) Prior to the tender, the existing employer will be required to:
 - i. Agree to the Transfer Regime with the PTA
 - ii. Ensure employment agreements reflect the Transfer Regime
 - iii. Identify eligible employees and advise the PTA
 - iv. Communicate the process and provides regular updates to employees
 - v. Supply the PTA with anonymised employee information, including copies of collective and individual employment agreements
 - vi. Update the PTA with any changes to supplied employee information in the lead-up to and during the tender process.

- e) In the six month period prior to the release of the tender and between the release of the tender and the new contract start, the existing employer must not make any material changes to employee numbers or employee terms and conditions beyond what would be considered reasonable for business as usual purposes.

Restrictions on existing employer

- f) Restrictions to be placed on the existing employer during the pre-tender period will include:
 - i. Not increasing employee remuneration beyond normal or reasonable practice
 - ii. Not varying employment agreement(s) that takes effect just before or after the end of the incumbent operator's term
 - iii. Not creating a termination-based benefit
 - iv. Not creating a benefit that the employee will or may receive after the contract expiry
 - v. Not hiring new staff beyond normal or reasonable practice
 - vi. Not making existing staff redundant beyond normal or reasonable practice
- g) It is not intended that the proposed restrictions constrain the existing employer BAU activities.

7) Existing employer obligations (cont.)



Rationale for proposed option

- h) The proposed option of requiring the incumbent operator to make all eligible staff available to receive offers to transfer was selected on the basis that the option best aligns with the selection principles, in particular that it provides certainty for all parties and is simple to define and administer.
- i) The requirement for specific restrictions on the existing employer prior to a tender process was included as it ensures that the incumbent operator does not act in a way that may place unnecessary additional cost or constraints on an incoming operator.

Other options considered but not preferred

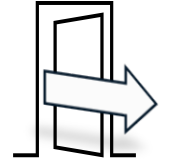
- j) Other options considered by the sector working group in relation to obligations on the existing employer included:
 - i. The incumbent operator nominates only those employees it considers may be surplus following a tender process who would receive first rights of offer to transfer
 - ii. All employees choose to make themselves available for selection with incoming operator

Engagement questions

- 7.1 To what extent do you agree with the proposed obligations on the existing employer to make all eligible employees available to the transfer process? Any other suggestions or feedback on making employees available?
- 7.2 To what extent do you agree with the pre-tender obligations on the existing employer?
- 7.3 To what extent do you agree with the pre-tender restrictions on changes that the existing employer can make in relation to employee numbers and terms and conditions?
- 7.4 Are there any aspects of the existing employer's obligations that require further explanation or clarification, and if so what are these?
- 7.5 Do you have any other comments or suggestions?

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8) Incoming employer obligations



Obligations on incoming employer

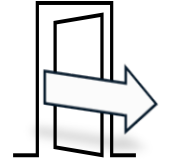
- a) Tenderers will be required to nominate the level of staffing requirement that they consider necessary to deliver the services and the incremental number of employees above existing staffing levels that they will need to employ from the incumbent operator or operators to fulfil their staffing requirement.
- b) Unless there are reasonable grounds not to, the incoming operator must make offers to eligible employees (up to nominated staffing requirements).
- c) Subject to reasonable grounds for not making offers, the incoming operator will be obligated to make offers at least up to the level of staffing requirement nominated in their tender response.
- d) The incoming operator must fulfil its obligations to make offers to eligible employees prior to running an open recruitment process to fulfil remaining vacancies.

Reasonable grounds

- d) The reasonable grounds for an incoming operator not to make offers to individual eligible employees are limited to:
 - i. A candidate is unable to comply with reasonable pre-employment conditions (including drug and alcohol testing, police vetting and satisfactory completion of a driving aptitude test, if applicable).
 - ii. The employee does not meet the pre-requisites to perform the work (for instance, the individual does not hold the relevant class of license necessary to undertake employment or may be on extended ACC or sick leave).
 - iii. The incoming operator does not undertake work that is substantially similar to the work being undertaken by the employee (note that this ground relates to the nature of bus driving work and not related to experience driving specific routes or types of buses).
 - iv. A candidate who was previously employed by the incoming operator and, within the last ten years, was justifiably dismissed and subsequently was employed by the existing employer.

[Cont...](#)

8) Incoming employer obligations (cont.)



Rationale for proposed option

- e) The proposed option of requiring the incoming operator to make offers to all eligible staff up to a nominated staffing requirement and subject to a limited number of grounds not to make offers, aligned best with the selection principles, in particular the option is fair and equitable while acknowledging that there are some grounds on which it is reasonable for an incoming operator to decline to make offers to certain employees.
- f) The option also recognises that an incoming operator may not need all of the eligible staff available and avoids an incoming operator employing surplus staff who would then need to be made redundant.

Other options considered but not preferred

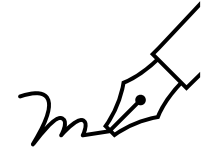
- g) Other options considered by the sector working group in relation to obligations on the incoming employer included:
 - i. Incoming operator only required to make offers to employees that it selects (i.e. no minimum obligation)
 - ii. Incoming operator must make offers to at least 80 percent or more of its staffing requirements or 80 percent or more of all eligible staff, whichever is the lower
 - iii. Incoming operator must make offers to all eligible staff

Engagement questions

- 8.1 To what extent do you agree with the proposed obligations on the incoming employer to make offers to all eligible employees up to a staffing requirement number nominated in its tender response? Any other suggestions or feedback on making offers to eligible employees?
- 8.2 To what extent do you agree with the grounds on which an incoming operator may decline to make an offer to an eligible employee?
- 8.3 Are there any aspects of the incoming employer's obligations that require further explanation or clarification, and if so what are these?
- 8.4 Do you have any other comments or suggestions?

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9) Valid offer



Composition of a valid offer

A Valid Offer from the incoming operator constitutes an offer of a suitable alternative position and location that does not negatively impact the employee's substantive terms and conditions and other requirements as follows:

- a) Substantively similar nature of work
- b) Similar location, defined by a home depot location that is no more than 30km from the employee's current home depot
- c) Similar hours of work, defined by:
 - i. For full-time employees, at least 40 hours per week
 - ii. For part-time employees, +/- 10% of existing hours per week
 - iii. For employees with specific hours of work (e.g. mornings only, school hours only), best endeavours by the incoming operator to offer something similar
 - iv. Or a make-up of hours by mutual agreement.
- d) Recognition of the employee's accrued entitlements for:
 - i. Annual leave
 - ii. Long service leave
 - iii. Days in lieu
 - iv. Sick leave
 - v. Parental leave.
- e) Substantively similar terms and conditions, defined by:
 - i. The higher of:
 - a) Employee's existing base rate, or better; OR
 - b) PTA specified base rate, or better
 - ii. PTA specified penal rates and allowances, or better
 - iii. The same or better KiwiSaver contributions
 - iv. The same or better leave entitlements
 - v. Recognition of continuous service for the purposes of calculating service-related financial entitlements.
- f) All eligible employees who receive a valid offer from an incoming employer have the right to decline the offer, however eligible employees who choose to decline a valid offer from the incoming employer will not be eligible for redundancy with the outgoing employer.

Rights of employees to decline an offer

- f) All eligible employees who receive a valid offer from an incoming employer have the right to decline the offer, however eligible employees who choose to decline a valid offer from the incoming employer will not be eligible for redundancy with the outgoing employer.

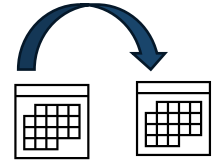
Engagement questions

- 9.1 To what extent do you agree with the proposed composition of a valid offer and do you have any suggested amendments?
- 9.2 Are there any aspects of the valid offer components that require further explanation or clarification, and if so what are these?
- 9.3 Do you have any other comments or suggestions?

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For discussion – not government policy

10) Treatment of accrued employee entitlements



Scope of accrued entitlements

- a) The scope of employee accrued entitlements that must transfer with the employee and to be recognised by the new employer are:
 - i. Annual leave
 - ii. Long service leave
 - iii. Days in lieu
 - iv. Sick leave
 - v. Parental leave.

Employee option to receive payment

- b) Employees will be able to select to have some or all of their accrued holiday entitlements (annual leave, long service leave and days in lieu) paid out by the outgoing employer as at the date of employment transfer
- c) If an employee chooses to have some or all of their holiday entitlements paid out, their starting level of entitlements with the new employer will be reset to the employee's remaining entitlement level after payment (if any) as at the transfer date.

Incoming employer obligations

- d) The incoming employer will be liable for contingent liabilities including sick leave not taken, if and when the contingency arises; bereavement leave not taken will also be the responsibility of the new employer, should the contingency arise after the date of transfer.

Existing employer obligations

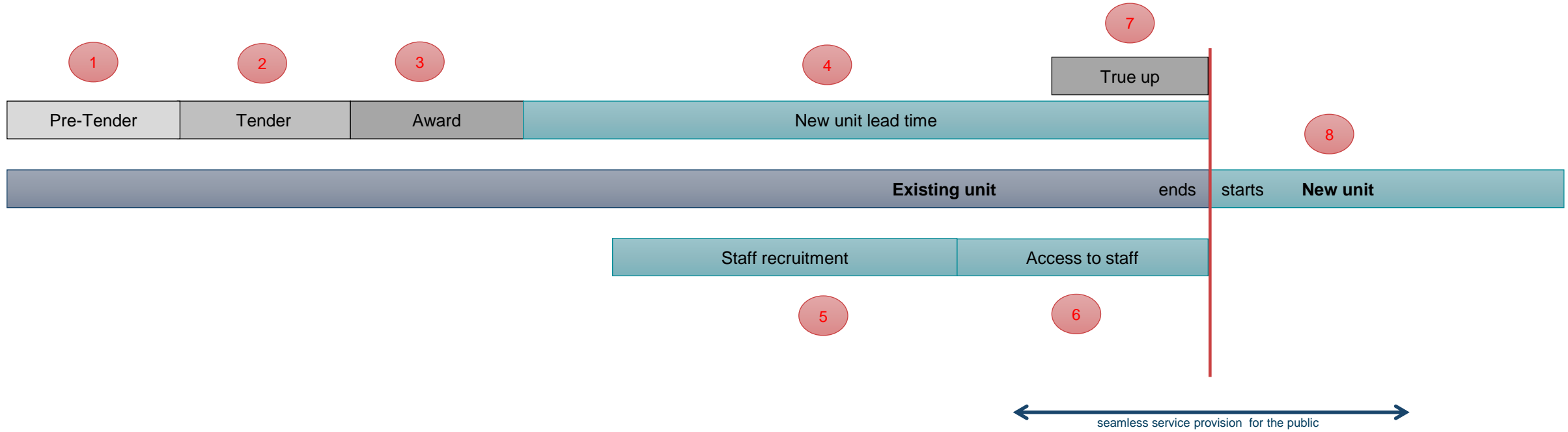
- e) The outgoing employer is liable for costs related to accrued annual holidays and alternative holidays (or lieu days) not taken by the time of transfer (the "specified date"). These costs will either be paid to the employee if employee chooses to be paid all or some holidays owing at the time of transfer with the balance paid to the new employer.
- f) The incumbent will be required to make anonymized employee records of entitlements owing as at the date of tender available, via the PTA, to all tenderers.

Engagement questions

- 10.1 To what extent do you agree with the proposed composition of a valid offer?
- 10.2 Are there any aspects of the treatment of accrued entitlements that require further explanation or clarification, and if so what are these?
- 10.3 Do you have any other comments or suggestions?

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11) Information and activity requirements



11) Information and activity requirements (cont.)

1

Pre-Tender

Incumbent operator:

- agrees Transfer Regime with PTA
- ensures employment agreements reflect Transfer Regime
- communicates process and provides regular updates to workforce
- identifies eligible employees and advises PTA
- supplies PTA with anonymised employee information, including:
 - terms & conditions, including base pay, penal rates, Kiwisaver, leave entitlements
 - accrued entitlements
 - employee tenure
 - nature of employment – full-time, part-time, fixed term
 - minimum hours of work for part-time employees
 - copies of employment agreements
- updates PTA with any changes to supplied employee information in lead-up to and during tender.

2

Tender

- PTA publishes anonymised details of eligible employees, employment agreements and agreed Transfer Regime in tender documents.
- PTA define key assumptions for tenderers to ensure fair basis for tendering across all participants.
- Tenderers agree to Transfer Regime as a condition of participation in the tender.
- Tenderers nominate required staffing requirements in tender responses.
- Tenderers price labour component of tender on basis of Transfer Regime provisions and substantive T&Cs for transferring employees.
- Tenderers submit an exit plan as part of tender responses (sets basis for future end of term obligations).

3

Award

- PTA confirms tender outcome.
- Comprehensive communication across all parties (PTAs, PTOs, workforce) once tender outcome known and what this means for employees.
- In the circumstances of a change of operator, PTA, outgoing operator and incoming operator meet to agree details of transfer process and the information to be provided to affected employees of the outgoing operator.
- Outgoing operator clearly communicates the agreed information related to the transfer process to its employees.

4

New unit lead time

- Regular and comprehensive communication across all parties (PTA, PTOs, workforce) throughout the lead-in time for the benefit of employees.

11) Information and activity requirements (cont.)

5

Employee recruitment

- Outgoing operator implements agreed protocols as set out in the Transfer Arrangement to enable incoming operator access to eligible employees for the purposes of recruitment and making offers.
- Incoming operator follows agreed protocols set out in the Transfer Arrangement to undertake recruitment process for eligible employees and to make offers.

Engagement questions

- 11.1 To what extent do the proposed information and activity requirements cover the needs of stakeholders through a tender process and change of operator? Do you have any further information or activities to add?
- 11.2 Are there any aspects of the information and activity requirements that require further explanation or clarification, and if so what are these?
- 11.3 Do you have any other comments or suggestions?

6

Access to employees

- Transfer Arrangement sets protocols for establishing agreement between outgoing operator, incoming operator and PTA to facilitate the incoming operator's access to staff for the purposes of onboarding and training.
- PTA to play a role in facilitating employee onboarding and training, for example by proactively planning for reduced services to enable release of employees by outgoing operator for onboarding and training purposes with incoming operator.
- PTA continues to remunerate outgoing operator for reduced services to compensate outgoing operator for employee time for onboarding and training with incoming operator.
- Employee availability for onboarding and training must give regard to work time rule and rostering.

7

True up

- Outgoing operator pays incoming operator the value of the accrued leave entitlements that will transfer with employees.
- Recognising things will change between award and contract start, a 'true up' mechanism required to adjust commercials to account for changes post award and contract start.

8

New unit starts

- PTA undertakes post transfer review with operators and workforce.
- Learnings used for continuous improvement.

