

C&G Specialist Mortgage Solutions: TUPE Terms Insult

LTU has condemned the Transfer Terms by which Management are currently planning to force Specialist Mortgage Solutions (SMS) staff to transfer to Central Trust as being the worst ever inflicted upon Lloyds TSB Staff.

It will be no comfort to SMS Staff that in response to this accusation made by LTU at our last meeting with Management, C&G Management insisted that whilst these may be the worse terms ever affecting Lloyds TSB Staff, two previous TUPE Transfers affecting C&G Staff have been on even worse terms.

Without substantial improvements to the Transfer Terms that the two companies have so far proposed, SMS Staff would - following the transfer on 31st December - find themselves substantially worse off financially for doing the same roles.

Staff Facing Major Losses

Unless both Management Teams commit to significant improvements to the Transfer Terms they are proposing, staff face substantial losses including:

- **Whilst Pensions Scheme Contributions would remain broadly similar to now for staff who joined the Bank after 1997, those staff in the Final salary Scheme face substantial reductions in their Pension arrangements.**
 - **Payment of a Transfer Bonus worth just 7% - 3% of which would be paid monthly and 4% annually - in compensation for the loss of Flavours. LTU has said this needs to be worth 10% of salary.**
 - **Staff have been insulted with an offer of merely £100 Compensation for the loss of all their Banking Benefits ... ranging from Free Bank Accounts and Discounted Lending, to Personal Accident Insurance and Life Assurance.**
 - **For the first time concerning a Lloyds TSB TUPE Transfer, Management has refused to compensate staff with Staff Mortgages for the cost of having to transfer their Mortgage Arrangements.**
 - **Refusal to compensate SMS Staff from the opportunity to participate in future Share Save Scheme.**
- **Important Contractual Terms that are legally protected at the time of transfer - including Severance Terms, Sickness and Holiday arrangements - could be withdrawn after as little as 12 months, This is because Central Trust is refusing to provide longer-term protection; insisting on only committing the minimum protection that is legally required.**

The Transfer Terms being proposed by C&G and Central Trust are completely unacceptable. It will therefore be essential that the additional month delay before staff are transferred to Central Trust - following the pressure LTU successfully placed the Management Teams under - will be used to negotiate more acceptable arrangements.

Managements' Proposals Explained

LTU has adopted a principled approach to negotiations on the Transfer Terms: insisting that SMS Staff should expect to be neither financially better off nor worse off as a consequence of being forced to transfer between employers.

Through adopting this approach, LTU has reached agreement with the Management Teams during a number of previous TUPE Transfers.

But during the negotiations concerning SMS Staff, C&G and Central Trust both seem intent upon getting away with as little as they can. Both parties have shown a disregard for the future financial wellbeing of staff.

Contractual Terms

One of LTU's biggest concerns remains the fact that whilst the law protects all Contractual Terms at the time staff are forced to transfer between employers, this protection can be removed in as little as 12 months following the transfer.

This could apply to all the following contractual arrangements:

- * **Basic Pay**
- * **Severance Terms & Job Security Policy**
- * **Sick Pay**
- * **Working Hours & Patterns**
- * **Holiday Entitlement**
- * **Overtime Pay**
- * **London Allowance**
- * **Car Provision**
- * **Bonus & Incentive arrangements**
- * **Maternity Benefits**

An employer can get away with this so long as it can show that the reason for variation in Contractual Terms is not directly connected with the Transfer.

For example, Central Trust could replace the current Severance Terms with the far inferior Statutory Redundancy Terms just months before redundancies are announced, using the argument that the change is - to use the legal terminology - for "*economic, technical or organisational reasons*". Such reasons

could include a desire to 'harmonise' the terms of ex-Lloyds TSB Staff with those of other Central Trust employees.

The Management Team knows that this is the case, but continues to provide staff with meaningless reassurances. The question Central Trust needs to answer is this: if it genuinely has no longer term plans to vary existing Contractual Terms, what possible reason does it have to agree to the guaranteed minimum five years proction of all Contractual terms that LTU is seeking?

Pensions Arrangements

One of the most fundamental weaknesses of the TUPE legislation is that it does not fully protect the Pensions Arrangements of staff transferring between employers.

The legislation requires only that the new employer provides a pension scheme worth 6% of salaries.

Central Trust has exploited this lack of Pensions protection to propose the following arrangements:

- An 8.5% Employer Contribution together with a 2% Employee Contribution into a Pension Plan for staff currently in Lloyds TSB's Pension Investment Plan (PIP). This will leave any staff over 45 years old 2% worse off.
- An Employer Contribution of merely 10% of salary for staff currently in Lloyds TSB's Final salary Scheme. This will leave these staff substantially worse off.
- No matching Employer Contributions for staff contributing 2% of their own money into the Pension Scheme.

The Management Teams have nevertheless said they will consider LTU's concerns about the losses staff face before responding further.

Sharesave Scheme

LTU's success at forcing the Management Teams to

postpone the transfer date until 31st December removes any uncertainty concerning those Share Options due to mature in May.

All staff will be able to complete these Share Options through making five further monthly payments and then exercising their Options within six months of leaving Lloyds TSB.

However, two outstanding issues remain:

- The Bank has agreed to LTU's proposal to compensate staff for the projected loss of being able to complete any further Share Options. It will compensate both for additional shares staff will no longer be able to purchase at a discounted rate and the relevant maturity bonuses had staff completed their Share Options. On this, the only outstanding matter is the projected value placed on the shares.
- LTU is also insisting that staff should be compensated for being unable to benefit from future Share Options. LTU's proposals are based on arrangements already agreed with the Bank in relation to other TUPE Transfers. The Management Teams are currently refusing to match what has previously become a standard arrangement during previous TUPE Transfers.

Flavours

The Management Teams are presently offering the following compensation - in the form of Transfer Allowances - for the loss of Flavours:

- A Monthly Allowance worth 4% of basic salary for the loss Flavours.
- An Annual Allowance paid each April, worth 3% of basic salary.

LTU has insisted that to ensure staff are no worse off financially, the Monthly Allowance should be increased to 7% of basic salary in order to also take account of the additional cost of products available through Flavours that will now have to be purchased on the 'open market' (i.e. Life Cover). Central Trust says it is considering this proposal.

Banking Benefits

The Management Teams have so far insulted SMS Staff with offering just £100 Compensation for the loss of Banking Benefits that Central Trust will be unable to replicate.

For some staff, such a pitiful amount - which would be reduced for tax - will not even compensate a month's loss of benefit.

Staff Mortgages

It has become a routine element of previous TUPE Transfers affecting Lloyds TSB staff that the Bank compensates staff for the loss of Staff Mortgages.

This has involved staff being given six months to transfer their mortgages to other lenders, recompensing staff of all costs involved in doing so (fees, etc) and for the P11D value of the staff mortgages.

For SMS Staff, the Management Teams have so far offered no justification for why they are currently refusing to compensate staff during this transfer.

Grading & Salary Structure

Pay Review 2008

Bonus Scheme

Union Recognition

Internal Job Applications

Since the TUPE Transfer was first announced, one of the biggest causes of confusion for SMS Staff has concerned the ability for staff to apply for alternative jobs within the Bank.

This has been something that has been prohibited during previous TUPE Transfers for legal and contractual reasons and LTU had been concerned that staff have been misled into having false optimism over how they will be treated.

At our last meeting on the TUPE Transfer, LTU once again raised these concerns and asked for written confirmation on how Internal Job Applications would be treated. As a consequence of this pressure from LTU, the Management Team's have provided the following written assurance:

“Any staff with a ‘live’ job application in LTSB at the time of transfer, where the interview will take place within 4 weeks of the date of transfer or a job offer will be effective within 4 weeks of transfer will be able to ‘return’ to LTSB with continuity of service protected”

LTU welcomes this commitment.

Of course, it also does raise some interesting points. In particular, it seems to show that - unlike previous transfers - Central Trust isn't too bothered whether or not staff transfer with the new business. No doubt this accounts for why Central Trust does not appear committed to trying to match the Employment Package of staff once they have transferred between companies.

Safeguarding Staff From Poor Management Practices

Ever since the announcement that C&G SMS Staff are to be transferred to Central Trust, LTU has been concerned that adequate checks and balances should be in place to protect staff.

This is because of serious concerns over the approach to staff of local senior management, which has previously resulted in:

- **During the Summer, an unprecedented joint LTU-Human Resources initiative to flush out and address the mistreatment and mismanagement of staff.**
- **Over recent days the announcement that an ex-SMS Managing Broker has won the maximum possible award at Employment Tribunal for the mistreatment she**

received whilst working at C&G SMS. Senior Management at SMS was severely criticised by the Tribunal.

Against this background, it will be essential that the SMS operation is subject to important checks and balances to ensure that these sort of problems will not arise again.

Obviously, the fact that Central Trust has agreed to recognise LTU for Individual and Collective Representation on behalf of transferring staff will be important to this.

However, LTU will also be pressing for Top Management of Central Trust to itself keep a close eye on the Senior Management team to ensure that the operation is managed properly and staff treated fairly.

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