



# TUPE explained

## What is TUPE?

The Transfer of Undertakings (Protection of Employment) Regulations (TUPE) provide protection to employees in the event of a ‘relevant transfer’ of the business in which they work. If a business or part of a business is sold it will be a ‘relevant transfer’. TUPE also applies to a ‘service provision change’ for example, when work is outsourced or insourced.

## If TUPE applies:

### Employee protection

An employee automatically transfers from one employer to another with the same terms and conditions and continuous service intact. This is known as ‘the automatic transfer principle’.

Employees also have enhanced protection against dismissal in connection with a TUPE transfer.

### Your obligations

The buyer and seller of the business both have an obligation to inform and if appropriate, consult with recognised trade unions or elected employee representatives (if there is no recognised union). The consultation relates to any of their employees who may be affected by the transfer and any measures taken in connection with it. “Measure” would include changes that related to the employees’ pay arrangements or place of work and any restructuring, but also potentially even a change in benefits provider. Failure to comply with this obligation could expose the buyer and/or seller to awards of up to 13 weeks uncapped pay per affected employee.

### We can help

Complying with TUPE can be a minefield. If you are buying, selling and/or outsourcing part of your business, we recommend you seek legal

advice at an early stage. We have extensive experience advising on TUPE, whilst managing the commercial realities of the transaction.

*Contractual protection* – We can help you ensure that the contractual documentation has adequate protection in respect of transferring employees and associated liabilities;

*Inform and Consult* – We can help you formulate a commercial plan to manage transferring employees, including assisting you with documentation to fulfil your information and consultation obligations.

We regard our employment team as an extension of your business and as such aim to offer advice to meet your commercial objectives.

## For further advice please contact:

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