

If employees do not want to transfer

If employees do not want to transfer to the new employer, they can refuse.

If an employee refuses to transfer, they cannot usually claim:

- redundancy pay
- unfair dismissal

If an employee does not want to transfer, they must tell their current employer. It's best to do this in writing, for example in a letter or email.

What the employer should do

The employer should write back to the employee to:

- explain what will happen if they decide not to transfer
- make sure they have all the information about the transfer before they make a final decision

The old employer must tell the new employer that the employee will not transfer.

The employer should treat it as if the employee is resigning. They must:

- confirm the employee's notice period and agree a leaving date
- pay any outstanding wages and holiday they've built up but not yet taken when their employment ends

If the employer offers an alternative job

The old employer might offer the employee an alternative job, instead of them leaving or transferring.

If the employee accepts the role and it starts before the transfer date, their length of service continues.

The employer must tell the new employer that the employee will not transfer.

If there's no alternative job

The employee's employment will end on the date of the transfer if either:

- the employer does not offer an alternative job
- the employee does not accept an offer of an alternative job

If the transfer happens before the employee's notice period ends, they do not need to work beyond the transfer date. The employer does not have to pay for the rest of the notice period.

If working conditions would be worse

An employee might be able to end their employment and make a claim for constructive dismissal if:

- after the transfer their working conditions would be substantially worse
- this would be to their 'material detriment'

Working conditions could include:

- conditions in the contract
- physical working conditions
- other conditions such as the place of work

'Material detriment' means it puts someone at a serious disadvantage.

For example, the workplace changes location which makes it difficult or much more expensive for an employee to transfer.

This is a complex area of law. If you're in this situation, you should [get legal advice](#).