

Planning a transfer

There are things you should consider before a potential TUPE transfer if you're either:

- the new employer taking on the transfer
- the old employer making the transfer

Considering things before the transfer can help you:

- work out if you're ready for a TUPE transfer
- plan the transfer better
- keep good working relationships with your employees

As either the old or new employer in a TUPE transfer, you should consider:

- how you'll keep employees informed
- whether you might need to request or provide due diligence information
- making a transfer plan

Keeping staff informed

Employers should keep 'affected employees' informed about any transfer plans.

Affected employees include employees who are:

- transferring from the old employer to the new employer
- staying with the old employer, but their work will be affected by other employees transferring out
- already working for the new employer, but their work will be affected by employees transferring in

By discussing plans with employees early on and considering their views, you're more likely to:

- maintain morale
- understand and reduce any concerns
- build and maintain trust
- keep employees motivated in their work
- listen to ideas and suggestions
- maintain good working relationships

You should think carefully about:

- when is the best time to tell employees about the transfer
- how you'll communicate with them before, during and after the TUPE transfer

If you decide to go through a TUPE transfer, by law you must also inform and consult staff representatives. [Find out more about informing and consulting during a TUPE transfer.](#)

Due diligence

Due diligence is a formal appraisal process by the potential new employer.

The aim is to find out as much information as possible about the client, service or organisation and its potential before agreeing to the transfer.

Due diligence is used to:

- assess risk
- confirm if the transfer is possible
- identify employment costs and other liabilities
- decide how much to bid for the contract and if the service can be carried out with the funds available – for service provider changes

Due diligence information can include details like:

- bonus payments
- enhanced or contractual leave or pay, for example parental leave or redundancy pay

Due diligence is voluntary. But an employer is more likely to find a buyer if they provide information.

Warranties and indemnities

The new employer might also ask for warranties and indemnities. These protect their organisation from unexpected costs and liabilities.

Warranties are written statements from the old employer. The statement confirms either:

- the old employer has done something for the new employer
- certain information is correct – for example information about pay and benefits of transferring employees

Indemnities are promises to pay compensation for a type of 'liability'. Liability is something a person is legally responsible for. The new employer might ask for an indemnity from the old employer for employment claims like unfair dismissal.

Other employment checks

The new employer should make sure employees have all necessary employment checks and qualifications. For example, the right to work in the UK or DBS checks.

[Find out more about right to work checks on GOV.UK](#)

Data protection

Employers must follow data protection law (UK GDPR) when using, storing and deleting personal data.

[Find out more about data protection from the Information Commissioner's Office \(ICO\)](#)

Making a transfer plan

Both the old and new employers should have a transfer plan and share it with all employees.

A plan can help to:

- reduce concerns employees might have
- make sure you follow the process you set out

You should identify who will manage the transfer. They should have enough time to make, follow and change any plans during the transfer.

It's often best for one person to have this responsibility. This is so there's a clear point of contact and they can oversee communications.

This person managing the transfer should work on the plan with any trade union or employee representatives. This will help to reassure employees and keep a good working relationship with them.

[Use our TUPE transfer plan checklist for the old and new employer](#)

What the new employer should consider

Before you decide to take on a TUPE transfer, you should consider things like:

- the benefits or risks
- how you'll manage the transfer
- how much you may have to bid
- costs, for example staff employment or redundancy costs
- if there's enough work for employees
- how the transfer will affect existing employees
- how to help new employees settle in when they transfer
- whether trade union recognition will transfer
- how to manage employees who might have different terms and conditions
- any changes to working practices you might need to make which relate to the transfer – these are known as 'measures'
- any risk of redundancies after the transfer

Estimate costs

You should consider employment costs before you decide to take on a transfer. For example, costs of:

- buying new equipment
- any new work premises
- wages

Costs will depend on:

- how many employees are transferring to you
- whether they're paid more than existing employees

You should also consider whether you would have too many employees after the transfer. You might need to make redundancies and pay redundancy costs. [Find out more about making staff redundancies after a TUPE transfer.](#)

What the old employer should consider

You should consider how a TUPE transfer might affect your employees and how you'll manage the transfer. This includes:

- the benefits or risks of the transfer
- whether there will be enough employees remaining after the transfer
- any 'measures' (changes to working practices) you might need to make which relate to the transfer
- ways you can reassure employees and reduce concerns, for example by sharing any transfer plans
- identifying which employees will transfer

Manage the transfer

You should think about how you'll manage employees throughout the transfer. This includes how you'll:

- keep affected employees motivated about the transfer
- make sure work gets done to the same standard before, during and after the transfer
- keep knowledge and skills with your remaining employees
- manage workload after the transfer

Redundancy before a transfer

Before a TUPE transfer, the old employer cannot make employees redundant if the reason relates to the transfer. For example, the new employer asks them to. This would be [unfair dismissal](#).

The new employer cannot make employees redundant before the transfer.

If 20 or more employees are at risk, a redundancy consultation can start before the transfer. Both the old and new employer must agree to this.

[Find out more about TUPE and redundancy](#)