

Transferring employees

On the date of the transfer, employees will automatically transfer to the new employer, along with their:

- length of service
- employment contract, including their terms and conditions of employment

This means an employee's start date is the same as it was before the transfer. Their employment contract continues and they do not get a new one.

Informing employees about a change of employer

The new employer must inform the transferred employees in writing that there's been a change of employer.

The new employer should confirm in writing:

- the employer has changed
- the employee's length of service and contractual rights are the same as before the transfer

The new employer might want to add these details to employees' written statement of employment particulars.

The new employer should talk with staff soon after they transfer to:

- keep them informed
- listen to any concerns they have

This will help to reassure employees and help them settle in, as well as build good working relationships.

Which terms and conditions transfer

The new employer should assume all employee terms and conditions transfer unless they get different legal advice.

Employees' terms and conditions of employment might include:

- job title and role
- pay, including any overtime pay
- contractual bonuses
- commission
- sick leave and pay
- holiday leave and pay, including any outstanding holiday pay or any arrangements to carry over holiday from previous leave years
- allowances
- insurance-based benefits
- contractual enhanced redundancy pay

- any terms agreed through collective agreements between an employer and a trade union
- any contractual terms from other sources, for example from a staff handbook or an agreement affecting many employees
- any terms that might not be in an employment contract, for example a lorry driver needing a valid driving licence to work

The new employer must not breach the terms of the transferring employment contract. If they do, an employee might be able to make a claim to an employment tribunal.

Pensions

Any pension an employee has built up to the date of the transfer is protected.

Their pension might transfer to the new employer. This depends on whether they have:

- a personal pension – a pension that employees arrange themselves
- a workplace pension – a pension arranged by the old employer

If they have a personal pension which the old employer was contractually obliged to contribute to, their pension rights will automatically transfer to the new employer. The new employer must pay the same amount into the personal pension as before the transfer.

If they have a workplace pension, it's unlikely to transfer to the new employer. This is because it is exempt from TUPE. The new employer does not have to continue the same pension. But they must provide a reasonable alternative scheme, and match employee contributions up to a maximum of 6%.

Early retirement terms might also transfer to the new employer.

Employers can [find more information from The Pensions Regulator](#).

Employees can [find out more about how TUPE affects their pension from MoneyHelper](#).

Collective bargaining

On the date of the transfer, the new employer becomes responsible for:

- collective bargaining agreements, for example agreed changes to pay and benefits
- collective bargaining arrangements, for example how often meetings take place and who represents employees in negotiations

Collective bargaining agreements are agreements between the old employer and a trade union that affect employees' terms and conditions.

Many collective agreements continue for an indefinite time. For example, if employees' holiday is increased or a shorter working week is agreed, it is likely to continue indefinitely.

Some collective agreements might only cover a specific period. For example, an agreed change to employees' pay might only be for one year.

One year after the transfer, the new employer can renegotiate terms and conditions in collective agreements. However, overall it must not make an employee's employment contract worse.

Trade union recognition

Trade union recognition is when an employer agrees that their employees can be represented collectively by a trade union.

Under TUPE, trade union recognition only transfers to the new employer if the transferring employees keep a separate identity within the new employer's organisation.

For example, ShopCo's security staff has a recognised trade union. ShopCo transfers the security staff to SafeLtd. The staff keep a separate identity to SafeLtd's wider security workforce. This means the trade union for ShopCo's security staff transfers to SafeLtd.

If recognition transfers to the new employer, it will transfer with the same terms as with the old employer.

If the transferring employees do not keep a separate identity, the recognition agreement will end. But the trade union could try and negotiate a new one.

For example, ElectricCo's team of electricians has a recognised trade union. ElectricCo merges with another company to form SparkCo. All the staff transfer and become one workforce. The electricians from ElectricCo do not keep a separate identity so their trade union does not transfer.

Outstanding holiday and pay

On the date of the transfer, the new employer becomes responsible for any outstanding wages or unpaid bonuses.

For example, an employee is transferred to a new employer in January. Their old employer previously paid a performance-related bonus in March. Their new employer is now responsible for paying them the bonus in March every year.

The new employer also becomes responsible for:

- any outstanding holiday
- any arrangements to carry over holiday from previous leave years
- enhanced or contractual holiday — where employees get more than the legal minimum

For example, an employee's holiday year starts on 1 January and ends on 31 December. They have 10 days' holiday left when they transfer on 1 October. Their new employer must allow them to take this holiday before the end of their leave year, if the employee wants to.

The new employer is responsible for these things even if the old employer did not include them in [employee liability information](#).

If employee liability information was missing or inaccurate, the new employer could make a claim to an [employment tribunal](#).

Changing employees' terms and conditions

The new employer must be careful when agreeing changes to transferred employees' terms and conditions. There are things to consider if the main reason for changing an employment contract is the transfer.

[Find out more about changing an employment contract after a TUPE transfer](#)