

## TUPE redundancy

### When redundancy can happen

Employers must follow a fair redundancy process throughout a TUPE transfer.

TUPE regulations protect employees' rights when they transfer to a new employer. TUPE stands for Transfer of Undertakings (Protection of Employment).

Before starting a redundancy process, an employer should:

- [check if redundancies are needed](#)
- consider how to reduce or avoid them

### Before a TUPE transfer

An employer cannot make redundancies before a TUPE transfer if the reasons relate to the transfer. This is the case for both:

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

For example:

- the old employer cannot reduce the number of employees to make the organisation cheaper to run, to try to find a buyer
- the new employer cannot ask the old employer to make redundancies before the transfer – this would be [unfair dismissal](#)

Employers can make redundancies before a TUPE transfer if they are not related to the transfer. They must [follow the right process for managing redundancies](#).

### After the transfer

After employees transfer, employers can only make redundancies related to the transfer if there is both:

- a genuine redundancy situation
- an 'economic, technical or organisational' (ETO) reason involving a change in the workforce

A genuine redundancy situation could be where part, or all, of the organisation is:

- closing, or has already closed
- changing the types or number of roles needed to do certain work
- changing location

### Economic, technical or organisational (ETO) reasons

ETO reasons include:

- economic reasons – for example, essential cost-saving requirements
- technical reasons – for example, using new processes or equipment
- organisational reasons – for example, making changes to the structure of an organisation

ETO reasons must involve a change in the workforce. This could include:

- redundancies
- a significant restructure
- a change in location of the workplace

If an employer makes an employee redundant without a valid ETO reason, it will be an automatic unfair dismissal.

In this situation, the employee could make a claim to an employment tribunal. To make a claim they must have been employed continuously by the employer for 2 years or more.

## Treating employees fairly

If an employer needs to make redundancies in particular roles or teams, they must:

- treat transferred employees in the same way as employees who have worked there longer
- select employees in a fair way and not disadvantage employees who have transferred
- [hold consultations](#) with employees or their representatives about the proposed selection methods and criteria

## Redundancies not related to the transfer

If the reason for redundancies is not related to the transfer, employers do not need an ETO reason involving a change in the workforce.

[Find out more about managing a redundancy process](#)

## Contact the Acas helpline

If you have any questions about TUPE and redundancy, you can [contact the Acas helpline](#).