

TUPE

What a TUPE transfer is

TUPE regulations protect employees' rights when they transfer to a new employer.

TUPE stands for Transfer of Undertakings (Protection of Employment).

A TUPE transfer is when there's either:

- a business transfer
- a service provider change

A business transfer is when an organisation, or part of it, is transferred from one employer to another.

A service provider change is when a service is transferred to a new provider. For example, when another company takes over a contract for office cleaning.

The part of the organisation that's transferring must be in the UK for TUPE to apply.

The size of the organisation does not matter. For example, it could be a large organisation with many employees, or a small business with one employee.

TUPE regulations can apply to the public and private sectors, as well as charities.

Who TUPE regulations apply to

When there's a transfer, employers must follow TUPE regulations. This includes:

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

TUPE regulations protect anyone with the [legal status of employee](#).

TUPE regulations might also protect anyone with the [legal status of worker](#). If you're not sure whether someone is protected, you should [get legal advice](#) as this is a complex area.

Which employees transfer

All employees assigned to the business, or part of the business, that's transferring will automatically transfer with it.

An employer cannot choose which employees they want to transfer.

Business transfers

A business transfer is where a business or part of a business moves from one employer to another.

TUPE applies to a business transfer when all of the following apply:

- the employer changes
- its main assets transfer to a new employer
- business activities are the same as or similar to before the transfer

Assets can include:

- employees
- equipment
- business premises
- any work in progress
- goodwill, for example the business reputation or customer base
- intellectual property, for example copyrights or trademarks

Business transfers can include:

- mergers – where 2 businesses come together to form a new one
- businesses that have just one employee

TUPE is not likely to apply if it's a transfer of shares or equipment only.

Service provider changes

A service provider change is where contracts are taken over. This can be because of:

- 'outsourcing' – a service provided in-house is taken over by a contractor
- 'insourcing' – a contract ends and the work is transferred in-house
- 'retendering' – a contract ends and is taken over by a new contractor

TUPE applies to a service provider change when there's an 'organised grouping of employees'.

Service provider changes often include contracts for:

- catering
- security
- office cleaning
- waste collection
- machinery maintenance

TUPE does not apply if the contract is for:

- the supply of goods only, for example a car manufacturer getting their brake pads from a different supplier
- a single event or short-term task, for example a conference or an exhibition

Organised grouping of employees

For TUPE to apply to a service provider change, employees must be part of an 'organised grouping of employees'.

This is the group of employees carrying out work for the 'client'. The client is the organisation receiving the services.

There's no minimum grouping size. A grouping can have one employee.

The client must stay the same after the transfer. The work should stay mainly the same.

Example of a service provider change

An organisation called DeskCo contracted out the reception and security of their office to SecureLimited. When the contract ends, they retender the contract to Safeunit.

DeskCo is the client as they are receiving the services. The reception and security staff are part of an organised grouping of employees. This is because they provide services to meet DeskCo's needs. They'll transfer from SecureLimited to Safeunit under TUPE.

TUPE applies because the work and the client, DeskCo, stay the same.

Transferring to more than one employer

Sometimes a single business or service provider is replaced with multiple businesses or service providers. In this situation, employees transfer to more than one employer. TUPE might still apply.

If the work is randomly broken up between businesses or service providers, TUPE is less likely to apply. This is because the work is not staying mainly the same. This is called 'fragmentation'.

This is a complex area of law. If you're in this situation and you're not sure whether TUPE applies, you should [get legal advice](#).

Public sector transfers

TUPE applies to public sector transfers if the transfer is from either:

- the public sector into the private sector
- one public authority to another – for example, from the NHS to a local authority

TUPE does not apply to transfers within the public sector where the employer does not change. For example, transfers within the Civil Service. But employees get protections under the Cabinet Office Statement of Practice (COSOP).

[Find out more about public sector transfers on GOV.UK](#)

International transfers

TUPE does not always apply to international transfers.

TUPE might apply when:

- an employee works abroad but the organisation is based in the UK
- the purpose of the transfer is to move the organisation, or part of it, abroad – however this could also be a [redundancy situation](#)

For service provider changes, TUPE only applies if the organised grouping of employees is based in the UK.

If there's disagreement about whether TUPE applies

The old and new employer might not agree about whether TUPE applies to the situation. This can be confusing for an employee.

An employee in this situation could:

- [raise a grievance](#) – this is where they make a formal complaint to their current employer and their potential new employer
- speak to their trade union representative, if they're a member

If they cannot resolve the situation, they might be able to make a claim to an [employment tribunal](#). This is a complex area of law so they should [get legal advice](#).

Get more advice and support

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

You can also [book Acas training on TUPE transfers](#).