

What to inform and consult about

Employers must inform recognised trade union or employee representatives about a TUPE transfer.

Even if there's a trade union, employers should keep all affected employees informed about the transfer. Not all employees are trade union members, so they might not get updates from representatives.

An employer might want to agree with representatives what information to share with employees, and what to keep confidential.

Sharing details about intellectual property, for example copyrights or trademarks, could be damaging to the organisation.

What an employer must inform about

Both old and new employers must inform the representatives of affected employees in writing about the details of the transfer. This includes why it's happening. This could be in a letter or email.

By law, the new employer must inform the old employer of any 'measures'. These are changes that are likely to affect employees transferring in. The old employer must pass this information on to representatives of affected employees.

The information the old and new employer must give representatives in writing must include:

- confirmation that the transfer is happening, when it is expected to happen and why
- the number of agency workers employed, the departments they are working in and the type of work they are doing, if agency workers are used
- any measures the new employer is expecting which may affect staff transferring in – for example, changes to working hours, job descriptions, salary payment dates or risk of redundancies
- any legal, economic and social implications

Legal, economic and social implications might include:

- legal – effect on contracts, statutory rights and collective agreements
- economic – the new employer's financial worth, pay and benefits, pensions
- social – changes to start and finish times, changes to team and management structures

What an employer must consult about

Employers must consult with recognised trade union or employee representatives about measures they're expecting.

In a transfer, measures can include:

- redundancies
- change in location of work
- changes to pay dates
- new working patterns, for example hours of work

- different pension arrangements
- changes to trade union recognition or collective bargaining

The old employer must inform their transferring employees about any measures the new employer might make. But they cannot consult on these changes because they have no control over them.

If no measures are expected, there's no legal obligation to consult. However, many changes can count as a measure. Employers should consult unless they are sure employees will not experience any change as a result of the transfer.