

HOW-TO GUIDE: TUPE TRANSFER TOOLKIT FOR INCOMING EMPLOYER

What you need to know

This Guide to our TUPE transfer toolkit for an incoming employer will take you through the key steps as you navigate your way through a TUPE transfer process, where you are the employer who will be taking employees into your business (the 'incoming' employer). The suggested timeframes are suitable for a relatively straightforward transfer and are a guideline only.

The timeline assumes that you already have an existing workforce and that you do not have an existing form of employee representation in place (whether a recognised trade union or your own employee representative forum). Note that if you employ fewer than 10 employees, you can inform and consult directly with the affected employees, rather than through representatives.

The toolkit itself contains all the documents that you are likely to need. Links are also provided below to relevant parts of the Sparqa Legal guidance which you may find useful.

Please note that this guide is a summary only; for comprehensive guidance on the process, see [TUPE transfers](#).

When?	Task	Details	✓
Share information with the outgoing employer and make assessments ahead of the transfer			
Up to 6 months before the transfer date	Send a due diligence questionnaire to the outgoing employer to obtain information and help you assess costs and liabilities associated with the transfer.	<p>The toolkit includes a template <i>TUPE - due diligence questionnaire</i>.</p> <p>You may wish to ask for:</p> <ul style="list-style-type: none"> • information about who the outgoing employer thinks will transfer and who won't; • copies of employment contracts and the employee handbook so you can assess any problematic terms and costs; • details of any occupational pension schemes; • details of any other liabilities, such as legal disputes. 	
As soon as requested due diligence information is received	Assess the information and work out whether there are issues you will need to deal with.	<p>For example:</p> <ul style="list-style-type: none"> • terms and conditions of employment that cannot be continued after the transfer (you will need to come up with an alternative solution that is at least as favourable as the original arrangement); • problematic disputes that will be transferred to your business after the transfer; • whether there will be sufficient work for the employees who are due to transfer or whether there is a redundancy risk. 	
1-2 months before the transfer date	Request employee liability information from the outgoing employer.	<p>You can use the toolkit to generate <i>TUPE - Letter requesting employee liability information</i>.</p> <p>They must provide this information at least 28 days before the transfer is due to take place.</p>	

When?	Task	Details	✓
As soon as the employee liability information is received	Analyse employee liability information and any other due diligence and verify all potential costs and liabilities.	<p>Check the information received is consistent with any other due diligence obtained.</p> <p>Adequate assurances should be included in any sale or outsourcing agreement that the information provided is accurate and correct.</p>	
1-2 months before the transfer date	Start considering and putting plans in place to deal with practicalities that will need to be addressed after the transfer.	<p>The toolkit includes a <i>Checklist - Practicalities to consider ahead of a TUPE transfer (incoming employer)</i>.</p> <p>For example:</p> <ul style="list-style-type: none"> • check pension requirements and seek advice where appropriate, and / or set up new pension provisions; • make preparations for how you will induct transferring employees into your company; • identify any initial training needs for the new employees and organise training / onboarding where required; • ensure that all working areas and equipment is ready and working for the day of transfer. Check for any requirements for reasonable adjustments that might be needed for any of the transferring employees; • consider informing customers about the transfer and any impact this may have on the services they receive. 	
1-2 months before the transfer date	Issue a measures letter to the outgoing employer, setting out any measures you intend to take following the transfer that will affect the employees who have transferred.	<p>You can use the toolkit to generate a <i>TUPE – Measures letter</i>.</p> <p>The purpose of this letter is to provide the outgoing employer with information necessary to enable them to consult with their employees.</p>	

When?	Task	Details	✓
Carry out employee representative elections if you need to (ie if you have 10 or more employees and no existing employee or trade union representatives)			
Up to 3 months before the transfer date	Announce the transfer to all affected employees and call for nominations for employee representatives.	<p>You can use the toolkit to generate <i>TUPE – Letter to staff regarding proposed transfer</i>.</p> <p>Note that ‘affected’ employees include any employees whose job might be affected by the transfer – not just those who will actually transfer. In a small business, this may mean all of your staff.</p> <p>If you have fewer than 10 employees, you don’t need employee representatives; you can liaise with those affected individually.</p>	
	Having received nominations, write to your staff to let them know who has been nominated and include a ballot form to allow them to vote for nominees.	<p>The toolkit includes <i>TUPE - Notice of ballot</i> that you can use.</p> <p>You must allow them to vote for as many candidates as there will be representatives within the group they fall within.</p>	
	Hold the ballot and count up the results, then send a letter to employees confirming who their representatives are.	You can use <i>TUPE - Notice of Appointment of Employee Representatives</i> included in the toolkit.	
Provide information to your employees or employee representatives about the transfer and consult with them where necessary			
Up to 2 months before the transfer date	Send a letter to your employees, or their representatives, setting out details about the transfer and outlining changes that may affect them.	You can generate <i>TUPE - Letter providing information for employees (Incoming Employer)</i> using the toolkit.	

When?	Task	Details	✓
	<p>If there will be changes that will affect employees, carry out consultation meetings with a view to coming to a mutually acceptable agreement about changes.</p> <p>In most situations, you will need to carry out 2-3 meetings to achieve this.</p>	The toolkit includes a template <i>Consultation Meeting Agenda</i> .	
Deal with post-transfer practicalities			
As soon as possible following the transfer date	Send a letter to employees who have transferred into your business confirming that the transfer has taken place.	You can use <i>TUPE – Confirmation of Transfer of Employment Letter</i> included in the toolkit.	
	Carry out any necessary practical steps to integrate the new staff into your business.	<p>These might include:</p> <ul style="list-style-type: none"> • carrying out an induction process; • arranging necessary training; • liaising with customers to ensure that service levels are maintained. 	