

HOW-TO GUIDE: TUPE TRANSFER TOOLKIT FOR AN OUTGOING EMPLOYER

What you need to know

This How-to guide to our TUPE transfer toolkit for an outgoing employer will take you key steps you will need to take as you navigate your way through a TUPE transfer process, where you are the employer who will be transferring employees out of your business (the 'outgoing' employer). The suggested timeframes are suitable for a relatively straightforward transfer and are a guideline only.

The timeline assumes that you will have some remaining employees following the transfer 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.

If you intend for all employees to transfer and for your company to close following the transfer, you can ignore many of the steps in this timeline as they will not be relevant.

The toolkit itself contains all of 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 incoming employer and make assessments ahead of the transfer			
Up to 6 months before the transfer date	Liaise with the incoming employer, responding to any due diligence that has been requested.	<p>The incoming employer may ask for:</p> <ul style="list-style-type: none"> • information about who will transfer and who won't; • copies of employment contracts and the employee handbook to assess any problematic terms and costs; • details of any occupational pension schemes; • details of any other liabilities, such as legal disputes. 	
At least a month before the transfer date	Send employee liability information to the incoming employer.	<p>The toolkit includes <i>TUPE – Employee Liability Information Letter</i> which you can use to provide the required information.</p> <p>You are legally required to send this information at least 28 days before the transfer date, but in practice you are likely to want to send it sooner than this.</p> <p>The information must be correct as of 14 days before the date you send the letter.</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 (outgoing employer)</i> and <i>Checklist for departing staff</i>.</p> <p>For example:</p> <ul style="list-style-type: none"> • determine whether there will be sufficient work after the transfer for remaining employees. If a potential risk of redundancy is identified, consider ways to minimise the impact of this; • prepare payroll and HR systems for the removal of transferring employees; 	

When?	Task	Details	✓
		<ul style="list-style-type: none"> • check existing pension requirements and seek advice where appropriate; • consider what will happen with your existing workplace and whether you will need to downsize or sell/remove unnecessary equipment; • consider informing customers about the transfer and any impact this may have on the services they receive. 	
1-2 months before the transfer date	Request a measures letter from the incoming employer, setting out any measures they intend to take following the transfer that will affect the employees who have transferred.	<p>You can generate <i>TUPE - Letter requesting measures information</i> using the toolkit.</p> <p>The purpose of this letter is to provide you with information necessary to enable you to consult with your employees; it's a legal requirement to provide it.</p>	
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 staff 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 them individually.</p>	
	Having received nominations, write to your staff to let them know who has been nominated and	You can use <i>TUPE - Notice of ballot</i> contained in the toolkit.	

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	include a ballot form to allow them to vote for nominees.	You must allow them to vote for as many candidates as there will be representatives within the group they fall within.	
	Hold the ballot and count up the results, then send a letter to staff confirming who their representatives are.	The toolkit includes a template <i>TUPE - Notice of Appointment of Employee Representatives</i> you can use.	
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.	Using the toolkit, you can generate <i>TUPE - Letter providing information for employees (Outgoing Employer)</i> .	
	<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>	Using the toolkit, you can generate <i>TUPE - Consultation Meeting Agenda</i> .	
	<p>If any employee objects to transferring and refuses to do so, this will count as a resignation.</p> <p>Send a letter to confirm this.</p>	You can use <i>TUPE - Letter to Employee who objects to transfer</i> , contained in the toolkit.	

When?	Task	Details	✓
Deal with post-transfer practicalities			
After the transfer	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"> • updating your internal systems and procedures to deal with issues arising from the transfer; and • liaising with customers to ensure that service levels are maintained. 	