

# Transfers of Undertaking (TUPE)

## 'Guidance for Managers and HR Professionals'

The mere mention of the word TUPE (Transfer of Undertakings for the Protection of Employment) can make many managers and HR Professionals fearful and uncertain about what they can and cannot do in TUPE situations.

More and more situations are arising where TUPE applies and rightly those charged with handling transfers want to feel confident to manage the legal, operational and change issues surrounding a transfer.

Many courses, often delivered by lawyers, provide a very good source of the legal ramifications of transfers. However, these rarely cover how to manage a transfer from start to finish, from defining who is in scope, to due diligence to dealing with the change and communication management issues of the staff transferring.

One of the difficulties of TUPE situations is the lack of definitive 'right and wrongs' and more often than not each situation has to be determined on its own merits. This is not helpful for the manager or HR professional who has little experience of TUPE situations and can make the whole process appear totally overwhelming. This course is designed to give confidence to those handling TUPE situations by providing guidance on steps of the process to be followed supported by a guidance pack to take away. The course aims to cut through the mystery and fear, which shrouds TUPE, and to provide a framework to cover the legal, the operational and change management issues of TUPE.

What the course will not do is provide a definitive legal answer for every TUPE scenario but it will give general principles to apply which more often than not will allow the delegate to arrive at sound and robust interpretation of the ever changing case law. The course will not remove the need for legal advice in very complex situations, but it will provide sound guidance for effective handling of TUPE situations in a large number of standard scenarios.

The course will also provide a step by step process to increase the likelihood of a successful transfer by not only focusing on the transactional elements of the transfer but moreover the transformational opportunities to engage with new transferees.

Generally this course, which can be adapted if required, will cover the following:

### **TUPE – The basics**

In this section we cover the situations which give rise to TUPE and remove the 'mist' around the terminology that is used.

### **How to plan a TUPE transfer**

Planning for a transfer is essential. We look here at what the planning process should include, setting milestones and deadlines prior to the transfer date, defining who is 'in scope' and the tests of scope that should be applied. We give a best practice process guide to the steps of the process to enable a successful transfer.

### **Forming relationships with the transferor**

The law now forces the transferor to provide information to the transferee but not until 2 weeks before the transfer date. Good partnership working with the outgoing employer ensures the quality of information and timeliness of receiving it. Getting accurate information will enable you to spot potential issues which you may want to indemnify against. This session looks at how relationships can be built through involving the transferor at an early stage.

### **Communicating and engaging with those transferring**

Often forgotten amidst the legal issues are the people transferring. They did not choose transferring to another employer – it is something that is a 'done deal'. Of course they can choose not to transfer but with no advantages to them in doing so. We look here at how critical engagement and communication is - and how to do it.

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### Legal Principles

No TUPE course would be complete without covering the legal aspects of transfers. We cover the fundamental principles which will help build confidence in handling the majority of standard TUPE scenarios.

### Regulation 10

Regulation 10 is a reporting requirement to the previous employer which notes any measures which you as the receiving employer will need to make. We cover what constitutes a measure and what you will need to do to fulfil your reporting requirement.

### What you can change and what you must protect in employees' terms and conditions

This is often the area which those handling transfers are most concerned about. We explain simply and succinctly what it is possible to change and what terms and conditions must be protected.

### Giving information, consultation and collecting information

This section explains the various points of collecting and giving information as you build a detailed picture of the staff you are to inherit.

### The softer face of TUPE Transfers

This section looks further at how you can show a softer face of TUPE. This is based on feedback from those transferring about what they liked about the transfer process which is being recommended and what they had previously not liked with other transfer situations.

### Dealing with difficult issues

There will always be some challenging issues with TUPE. Pensions are usually one and what do you do when someone does not want to transfer? What about changing structure – how far can you go? This section deals with some frequently asked questions.

### Countdown to Transfer

As transfer approaches – what should you check? What should be in place? The best practice process provides a checklist of the activities which should be completed in advance of the transfer.

### Post Transfer

Often forgotten, post transfer activities are critical. This section develops the recommended process that should be followed to demonstrate to your new staff that actually transferring was not a bad thing at all!

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<p><b>Purpose of the Course</b></p> <ul style="list-style-type: none"> <li>▪ To provide confidence to managers and HR professionals in handling TUPE.</li> <li>▪ To explain the basic legal principles surrounding TUPE.</li> <li>▪ To provide a full ‘start to finish’ process to guide and inform a successful TUPE transfer.</li> <li>▪ To explain the legal requirements of TUPE.</li> <li>▪ To examine communication strategy and best practice in ‘engagement’ of new staff.</li> <li>▪ Pre and post transfer requirements and best practice and advice on transfer management.</li> <li>▪ Advice and guidance on dealing with difficult issues.</li> </ul>	<p><b>Key Topics</b></p> <ul style="list-style-type: none"> <li>▪ Legislative framework.</li> <li>▪ Frequently asked questions.</li> <li>▪ Communication strategy.</li> <li>▪ In and out of scope.</li> <li>▪ Engaging with staff.</li> <li>▪ Best practice the transfer process.</li> <li>▪ Dealing with difficult issues.</li> <li>▪ Legal duties.</li> <li>▪ Transformational TUPE.</li> </ul>
<p><b>Objectives</b></p> <p>Again dependent on the organisation requirements but usually by the end of this course participants will be able to :</p> <ul style="list-style-type: none"> <li>▪ Define basic legal principles of TUPE transfers.</li> <li>▪ Understand and define ‘in scope’, understand what due diligence information needs to be collected and how to deal with difficult issues.</li> <li>▪ Be able to plan and follow a TUPE transfer process understanding the need to engage and communicate with new employees.</li> <li>▪ Define differences between transactional elements of the transfer and transformational TUPE actions.</li> <li>▪ Have confidence to deal with a full TUPE process knowing when to seek further advice and guidance.</li> </ul>	<p><b>Learning Methods</b></p> <ul style="list-style-type: none"> <li>▪ Interactive.</li> <li>▪ Use of case studies.</li> <li>▪ Process mapping.</li> <li>▪ Activity.</li> <li>▪ Trainer led facilitation.</li> <li>▪ Concept explanation.</li> </ul>