

TUPE briefing note

Employment implications for the
sale and purchase of a business

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Whether you are buying or selling a business, Tallents Solicitors can provide guidance on your obligations and assist you with this process.

When a business is sold, the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”) will transfer the contracts of employment of all existing staff from the seller to the buyer, preserving their terms and conditions of employment and continuity of service.

Therefore, when a business is transferred, employees of the seller will automatically become employees of the buyer on the same terms and conditions.

When a transfer takes place, TUPE places a duty on the buyer and the seller to inform and consult with those employees likely to be affected by the transfer or measures connected with it.

Affected employees are not only those who are transferring but could also include other employees (of the seller or buyer) whose jobs might be affected by the transfer.

Should you wish to instruct Tallents Solicitors in relation to the TUPE aspect of a sale or purchase, please contact our employment department on 01636 671881.

Employment implications for selling a business

The seller must provide specific employee liability information to the buyer at least 28 days before the transfer.

Failure to provide the required employee liability information can entitle the buyer to make a claim for compensation of a minimum of £500 per employee.

The seller must inform employee representatives of the proposed transfer, the date of the transfer and the reasons for it, the legal, economic and social implications of the transfer, any measures envisaged in connection with the transfer (or confirmation that no such measures are envisaged) and any measures the seller envisages that the buyer will take in relation to the affected employees (or confirmation that no such measures are envisaged).

Where the seller intends to take any measures in connection with the transfer, the seller must also consult with employee representatives regarding the proposed measures.

Before starting the consultation process, the seller must establish whether there are any recognised trade union representatives or elected employee representatives in place.

If there are no such representatives, depending on the total number of employees, the seller may need to arrange an election.

Information regarding measures proposed should be provided long enough before the transfer to enable a genuine and fair consultation to take place.

The seller must also provide employee representatives with information relating to the use of agency workers.

A breach of the obligations to inform and consult can result in a penalty of up to 13 weeks' pay per affected employee.

Employment implications for buying a business

Employees of the seller at the time of the transfer automatically become employees of the buyer on the same terms and conditions.

The buyer must provide the seller with details of any measures it envisages taking in connection with the transfer.

Details of any measures envisaged must be provided to the seller long enough before the transfer to enable the seller to inform.

The buyer must inform employee representatives of the proposed transfer, the legal, economic and social implications of the transfer, and any measures envisaged in connection with the transfer (or confirmation that no such measures are envisaged).

Where the buyer intends to take any measures in connection with the transfer, the buyer must also consult with employee representatives.

Before starting the consultation process, the buyer must establish whether there are any recognised trade union representatives or elected employee representatives in place.

If there are no such representatives, depending on the total number of employees the seller may need to arrange an election.

The buyer must also provide employee representatives with information relating to the use of agency workers.

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Note: All information is correct at time of publication.
We recommend you always consult your lawyer before taking any action.

Call us now to find out how we can help you.

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