

What is a TUPE transfer?

TUPE is an acronym for the Transfer of Undertakings (Protection of Employment) Regulations 2006. The rules aim to protect employees if the business they work for changes hands.

In its most simple form, a TUPE transfer occurs when;

- a business (or part of a business) is transferred to a new employer (“buy-out” of a business)
- a service provision change takes place (eg, directly employing a parish support worker who was originally employed by the DBF office, but now will be employed directly by you, doing the same job as they have done for a period of time, or directly employing a cleaner who was originally working for a contractor providing services to you)

The TUPE regulations protect the employee’s contractual benefits with their original employer when they transfer to you, except for Pension where the employer contribution amount must still be the same, but you can transfer them to a different provider if it is not possible to retain their original pension provider. The protection covers the following:

- Current terms and conditions of employment.
- Continuity of service.
- Redundancy payments, both statutory and contractual.
- Arrears of pay, holiday pay and sick pay, and any accrued holiday entitlement.
- Liabilities accruing prior to the date of transfer under employment protection legislation, including liability for unfair dismissal and discrimination.
- The terms of any collective agreement incorporated into the employment contract.
- Some other existing liabilities that are non-employment-related, such as the old employer’s liability for other wrongdoings known as tort (for example, for personal injury).
- Share options that will be lost and that should be compensated by an equivalent provision or payment.
- Similar private medical insurance and health insurance.
- Indemnities under employer’s liability insurance.

Due to the complexity of TUPE transfers, always contact the HR Advisor for advice and support if you believe that your employee/ potential employee may fall under the TUPE regulations.