

TUPE Transfer Checklist

The employee liability, consultation and handover steps a TUPE transfer on a cleaning contract needs.

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) usually apply when a cleaning contract changes hands and the workforce is dedicated to that contract — the affected employees transfer to the new employer on their existing terms. This checklist covers the steps both outgoing and incoming contractors (and the client) need to get right.

Download the checklist

A dated, step-by-step TUPE checklist covering employee liability information, consultation and transfer day.

Before the transfer date

- Identify which employees are "assigned" to the contract (i.e. spend most of their time on it) — only these employees are likely to transfer
- Outgoing employer prepares and provides Employee Liability Information (ELI) — names, ages, terms and conditions, length of service, disciplinary/grievance history for the last two years — normally at least 28 days before transfer
- Both employers inform and, where there are proposals affecting employees, consult with recognised representatives or, where none exist, arrange for employee representatives to be elected
- Clarify pension arrangements (TUPE has specific, more limited protections for occupational pensions)

Information and consultation

- Explain the fact of the transfer, the date, and the reasons
- Explain the legal, economic and social implications for affected employees
- Explain any measures the new employer envisages taking regarding the transferring employees
- Allow genuine time for questions and representations before the transfer date

On transfer day

- Transferring employees keep their existing terms and conditions and continuous service
- The new employer cannot make transfer-related dismissals or detrimental changes to terms unless there is an economic, technical or organisational (ETO) reason entailing changes in the workforce
- Update payroll, PPE issue, ID/access and induction into the new employer's policies (health & safety, COSHH, reporting lines) without changing contractual terms

After transfer

- Confirm continuity of service for holiday, pension auto-enrolment and future redundancy calculations
- Address any post-transfer harmonisation of terms carefully and only where legally permissible
- Keep the ELI and consultation records on file — needed if a claim is later raised

Common mistakes to avoid

- Assuming TUPE does not apply just because the contract is being brought in-house or the new contractor intends to use its own staff — the analysis depends on the workforce and activity, not intent
- Leaving ELI requests until the last minute
- Changing terms and conditions immediately after transfer without an ETO reason

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