

Changing an employment contract after a TUPE transfer employer responsibilities

TUPE regulations protect employees' rights when they transfer to a new employer. TUPE stands for Transfer of Undertakings (Protection of Employment).

As an employer, you can usually agree with staff to [change an employment contract following the usual process](#). But when there's been a TUPE transfer, there are additional considerations if the main reason for a change is the transfer.

[Find out more about when TUPE regulations apply.](#)

If the main reason for a contract change is the transfer

After a TUPE transfer, you can only make changes to contracts because of the transfer if:

- you improve employees' terms and conditions, for example you increase their holiday entitlement (annual leave)
- there is an 'economic, technical or organisational' (ETO) reason involving a change in the workforce, for example your organisation needs restructuring

TUPE regulations give certain protections to employees' terms and conditions for an indefinite period. For example, if someone was transferred to your organisation, 10 years later you may want to change their terms and conditions for a reason related to the transfer. By law, you could only make changes if they improve the employee's terms and conditions or if there's an ETO reason involving a change in the workforce.

ETO reasons for contract changes

By law, you can agree with an employee to change an employment contract if there's an ETO reason involving a change in the workforce.

ETO reasons include:

- essential cost-saving requirements (economic reasons)
- using new processes or equipment (technical reasons)
- making changes to the structure of an organisation (organisational reasons)

A change in the workforce could include:

- making redundancies
- restructuring an organisation
- job role changes
- a change in work location

Example – a valid ETO reason for a contract change

PrintsCo is a large printing organisation in Luton. It recently bought a smaller organisation called Medias Creative in Dunstable. All 27 employees at Medias Creative transferred to PrintsCo. Most of the technology at PrintsCo is more advanced, apart from some specialist equipment still used at Medias Creative. This means the work can now be done by fewer employees. PrintsCo decides to restructure its organisation and makes 5 employees redundant. After consulting with all affected staff, PrintsCo agrees with affected staff to change their contracts so they can now work from either the Dunstable or Luton locations. This is likely to be a valid ETO reason because there's a technical reason (new equipment) that involves a change in the number of the workforce (redundancies).

Example – an invalid ETO reason for a contract change

A college had staff working to 6 different sets of terms and conditions resulting from TUPE transfers so it wanted to put everyone on the same terms for ease of administration and to cut costs. They dismissed and rehired an employee with a pay cut which they refused to accept. This was found to be automatically unfair at an employment tribunal. The reason for the dismissal was the transfer. It's not a valid ETO reason because the main reason for the dismissal was the transfer and the proposed changes do not involve a change in the workforce.

Improving terms and conditions to match those of existing staff

Following a TUPE transfer, it's likely that the employees who have transferred will have different terms and conditions to the employees who already work for you.

You do not have to, but you may wish to 'harmonise' terms and conditions (change them so they are the same as those of the existing workforce). However, you can only do this if it improves employees' terms and conditions.

Terms and conditions cannot be changed to something worse than before, unless you have a valid ETO reason involving a change in the workforce.

You should make sure any differences in terms do not treat particular groups of employees unfairly. [Find out more about discrimination and the law.](#)

Changing terms and conditions in collective agreements

Collective bargaining agreements are agreements between the old employer and a trade union that affect employees' terms and conditions.

When a TUPE transfer happens, any collective agreements will transfer with the employees to you. Collective agreements could include terms and conditions like:

- pay
- working hours
- holiday entitlement

After one year, you can renegotiate terms and conditions in collective agreements if overall it does not make an employee's employment contract worse.

If the main reason for a contract change is not the transfer

If a contract change is unrelated to the transfer, you can agree changes to employees' terms and conditions. TUPE regulations do not prevent this.

There may be valid reasons for agreeing contract changes with employees. For example, if business needs have changed for reasons that do not relate to the transfer.

You must agree with employees to any changes and follow the usual process for [changing an employment contract](#).

Get more advice and support

If you have any questions about changing an employment contract after a TUPE transfer, you can [contact the Acas helpline](#).

Acas also offers:

- [tailored support for employers](#)
- [training on TUPE transfers](#)