

# TUPE

Practical guidance on the impact of the Transfer of Undertakings  
(Protection of Employment) Regulations 2006

**Tuesday 18 May 2010**  
Radisson Mountbatten, London

Conference devised and chaired by **Michael Rubenstein**  
In association with **Industrial Relations Law Reports**



## **TUPE 2006: An Overview**

*Michael Rubenstein, Industrial Relations Law Reports*

## **Determining when the Transfer of Undertakings Regulations apply: New definitions**

*Melanie Tether, Old Square Chambers*

## **Preparing for a TUPE transfer**

*Geoffrey Mead, Eversheds LLP*

## **Legal effects of a transfer: how the law has changed**

*Jason Galbraith-Marten, Cloisters Chambers*

## **Post-transfer issues: contractual variations and unfair dismissal**

*Andrew Stafford QC, Littleton Chambers*

## **Outsourcing: a practical perspective**

*Kathleen Healy, Freshfields Bruckhaus Deringer LLP*

*“Excellent in-depth consideration of a complex area.”*

Jackie Cribb, Lawyer,  
Treasury Solicitors Department,  
TUPE 2009 conference delegate

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## Who are the speakers?

**Michael Rubenstein** has edited *Industrial Relations Law Reports* since its inception in 1972 and is now publisher of *Equal Opportunities Review*.

**Melanie Tether** is a barrister at Old Square Chambers specialising in employment law. She is a former Chair and current Vice-President of the Industrial Law Society. She is a contributing editor of *Harvey on Industrial Relations and Employment Law*.

**Geoffrey Mead** is a partner at Eversheds LLP, London, specialising in employment law. A particular focus of his practice lies in providing advice to clients in the education sector. He is a former chair of the Industrial Law Society.

**Jason Galbraith-Marten** is a barrister at Cloisters Chambers specialising in employment law. He is Vice-Chair of the Industrial Law Society and a member of the Employment Law Bar Association's Executive Committee.

**Andrew Stafford QC** is a barrister at Littleton Chambers specialising in employment law and commercial litigation. He is an editor of Sweet & Maxwells' textbook on *Transfer of Undertakings* and is a part-time employment judge.

**Kathleen Healy** is a partner in the employment, pensions and benefits group of Freshfields Bruckhaus Deringer LLP, based in London. She is experienced in advising on employment issues arising from reorganisations, outsourcing projects and business transfers.

### Industrial Relations Law Reports

Throughout the UK, Industrial Relations Law Reports (IRLR) is the most widely read and frequently cited series of reports on employment law. Every month, thousands of legal and personnel specialists rely on it for up-to-date and accurate full-text law reports.

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# TUPE in 2010

The law relating to transfer of undertakings is once again changing rapidly. This unique and widely-acclaimed conference brings together some of the UK's leading experts on TUPE. They will systematically take you through the revised Transfer of Undertakings Regulations, explaining the issues that arise, how they have been interpreted by the courts in recent decisions, and the policy implications of these developments.

The first cases under TUPE 2006 are now being decided by the tribunals and appellate courts, and there have been a clutch of recent important decisions affecting TUPE rights and duties, including:

- *Tapere v South London and Maudsley NHS Trust* on transfers and mobility clauses
- *Parkwood Leisure v Alemo-Herron* on the transfer of rights from a collective agreement
- *Oakwood v Wellswood (Yorkshire) Ltd* on TUPE and insolvency
- *Metropolitan Resources Ltd v Churchill Dulwich Ltd* on the correct approach to establishing a service provision change
- *Unison v Somerset County Council* on identifying "affected employees" for information and consultation purposes
- *Cable Realisations Ltd v GMB Northern and Royal Mail Group Ltd v Communication Workers Union* on the scope of the duty to inform

More cases are in the pipeline. If you are responsible for advising on employment law or for developing personnel policies, you will want to ensure that you understand not only the latest cases which have been reported, but also the significance of the next cases to be reported, both at UK and EC level.

All conference delegates will receive comprehensive documentation including the full reports of key decisions of the European Court of Justice and UK courts, as well as the texts of statutory materials.

### What delegates said about our TUPE conference in October 2009:

*"Good range of speakers. Complex issues well-explained."*

David Edwards, Company Secretary, Peverel Ltd

*"An excellent, practical guide to TUPE 2006."*

Amanda Fishwick, Solicitor, Waterfront Solicitors LLP

*"Very helpful, clear summary of ongoing issues."*

Liz Shaw, Solicitor, Beachcroft LLP

*"Comprehensive and good for an update."*

Heyma Vij, Solicitor, BPE Solicitors

# Programme

Tuesday 18 May 2010

Radisson Mountbatten, London

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09.00 Registration and coffee

**09.30 TUPE 2006: an Overview**

Michael Rubenstein, Editor, Industrial Relations Law Reports

**09.45 Determining when the Transfer of Undertakings Regulations apply: TUPE definitions**

- The 2006 definitions of a TUPE transfer: how they work
- Transfer of an economic entity retaining its identity
- A service provision change: how it has been interpreted
- Seconded and delayed employment transfers

Melanie Tether, Barrister, Old Square Chambers

10.45 Coffee

**11.00 Preparing for a TUPE transfer**

- Informing and consulting worker representatives about the transfer: who must be informed and consulted?
- Notification of employee liability information: what information do transferors have to provide to transferees
- Remedies for the transferee for breach of the requirement to provide employee liability information
- Negotiating the transfer agreement: due diligence, warranties and indemnities

Geoffrey Mead, Partner, Eversheds LLP

**12.00 Panel Session: An opportunity for questions and discussion with the morning's speakers**

12.30 Lunch

**13.30 Legal effects of a transfer: how the law has changed**

- Determining which employees transfer: the rules relating to "assignment" and recent case law

- Employees who object to being transferred: *Tapere v South London and Maudsley NHS Trust*
- Which rights and obligations transfer and which do not? Bonuses, commission, share option schemes
- Transfer of rights under collective agreements: Court of Appeal decision in *Parkwood Leisure v Aledo-Herron*

Jason Galbraith-Marten, Barrister, Cloisters Chambers

**14.15 Post-transfer issues: contractual variations and unfair dismissal**

- Changes to terms and conditions post-transfer
- The impact of *Regent Security Services v Power*
- Variations because of the transfer, a reason connected with the transfer and an "eto" reason
- Determining whether dismissal is connected with the transfer

Andrew Stafford QC, Littleton Chambers

15.00 Tea

**15.15 Outsourcing: a practical perspective**

- Outsourcing from the public to private sector: government guidance and codes of practice
- Key pitfalls in outsourcing: transfer of equal pay liabilities, transfer of collective agreements
- Structuring an outsourcing agreement
- Drafting tips for outsourcing

Kathleen Healy, Partner, Freshfields Bruckhaus Deringer LLP

**16.00 Panel Session**

An opportunity for questions and discussion with the afternoon's speakers

16.30 Close of conference

**Book Today**

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