

SHARPE PRITCHARD

Fleet Restructuring, Outsourcing and Insourcing

Employment law issues
for fleet managers

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Introductions



Jane Crees

Partner

Projects team

Public procurement, complex contracts and framework agreements, including highways and transport projects

jcrees@sharpepritchard.co.uk



Catrin Mills

Partner

Employment

Public sector reorganisations, restructuring, collective consultation and TUPE

cmills@sharpepritchard.co.uk

What we will cover

1

What is TUPE?

How does it affect you and when does it apply?

2

Managing transfers

Outsourcing, insourcing and contractor change

3

People and continuity

Supporting employees and keeping the fleet on the road

What happens to the workforce?

OUTSOURCE

Council → contractor

RE-TENDER

Contractor A → Contractor B

INSOURCE

Contractor → council or council company

Identify who is affected, what must transfer and how the service will keep running.

TUPE in a nutshell

Automatic transfer

1

Employees move to the new employer by law – no need for new contracts

Same terms, same service

2

Existing terms and continuity of service carry across

Liabilities move too

3

e.g. past discrimination or unpaid wages claims

No contracting out

4

It applies whether or not anyone intends it to

Two routes into TUPE

01 Business transfer

- An economic entity transfers
- It keeps its identity afterwards
- Relevant where a workshop, depot, assets or an organised team move

02 Service provision change

- Outsourcing, re-tendering or insourcing
- Activities fundamentally the same afterwards
- An organised grouping principally dedicated to the client

Fleet examples: workshop maintenance • vehicle recovery • passenger transport • waste collection • MOT and inspections

Questions to ask

1

What are the activities?

Define the actual work, not just the contract label

2

Are they fundamentally the same?

Compare scope, method and output before and after

3

Is there an organised grouping?

A team deliberately organised around the client's service

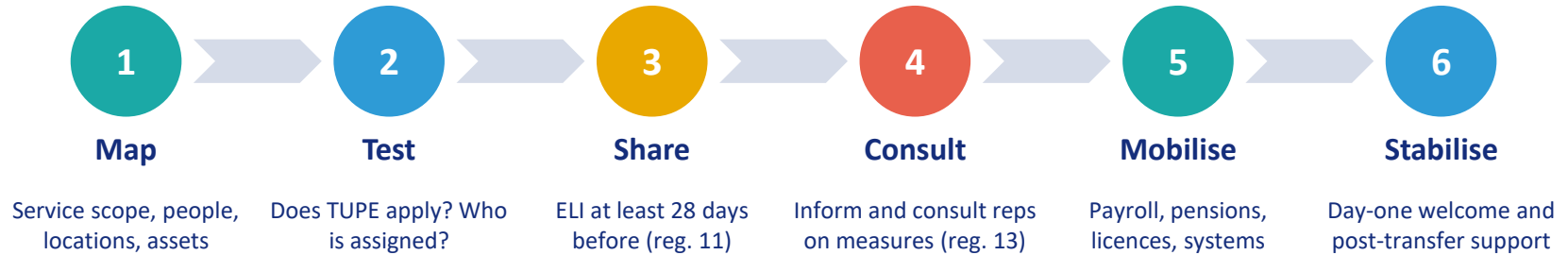
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Who is assigned?

Look at time spent, but also nature of role and organisational connection

Red flags: shared workshops • leased or electric fleet changes • split lots • short-term tasks • agency staff

The fleet transition journey



Fleet continuity plan: vehicle availability • workshop cover • driver competence • operator licence • safety-critical handovers

Key risks for fleet managers

Who transfers

Assignment disputes and “TUPE dumping”

Information gaps

Overtime, call-out, standby pay and local agreements

Licences and compliance

Driver CPC, operator licence and compliance records

Changes to terms

Void if the transfer is the reason, unless ETO or the contract permits (reg. 4)

Dismissals

Automatically unfair if the transfer is the reason, unless ETO (reg. 7)

Pensions

LGPS access and public sector pension protection

Contract protections

- Clear TUPE position on entry and on exit
- Obligation on the provider to give staffing information early and keep it updated
- Warranties and indemnities for pre- and post-transfer liabilities
- Restrictions on changing staff or terms in the run-up to exit
- Flow-down so the next provider (or the council) is protected on re-letting
- Involve HR and legal early – before the specification is fixed

Support people, protect service

Clarity

Explain what is known, what is not, and when decisions will be made

Voice

Genuine consultation through unions, reps and line managers

Practical detail

Pay dates, rosters, shifts, location, uniforms, equipment

Day one

Inductions, safety briefings, systems access and visible leadership



Scenario: contract change

Council fleet workshop services move from Contractor A to Contractor B. Most technicians work only on the council fleet. Contractor B will use a different rostering system and combine supervisory roles.

TUPE?

Likely a service provision change – but confirm the activities stay fundamentally the same

WHO?

Identify the organised grouping and who is assigned – not just time-sheet percentages

MEASURES?

New rosters and combined supervisor roles must be disclosed and consulted on

CONTINUITY?

Licences, shift cover, parts, IT and workshop safety at handover

Three things to take back

1

Start with the service design

Map the activity before deciding whether TUPE applies

2

Gather data early

Check the existing contract; get accurate workforce information as soon as possible

3

Think continuity and people

Clear communication and planning to retain staff and keep the fleet moving

Questions



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