

TUPE
(The Transfer of Undertakings (Protection of Employment) Regulations)

Important updates:

1. *Royden and others v Barnett Solicitors ET* (a case by Partners Employment Lawyers)

A law firm was awarded a conveyancing contract over a competitor. Although employees at the latter firm were offered employment with the winning firm, it would have required a change of location. Given this requirement to move, the employees resigned and claimed repudiation of contract due to a 'substantial change in their working conditions to their material detriment' and therefore, unfair dismissal.

The judge ruled in favour of the claimants and found that there was a failure to consult affected employees. This is of great concern to any firm which is pitching for work as it could potentially mean that you have to take on employees from the firm that previously handled the contract.

Hints and tips:

1. Make sure you are aware of the implications of a "service provision change". As set out above, you can end up taking on employees through successfully tendering for a contract, as opposed to taking over their former employer, simply because those employees were principally engaged on ongoing work for a particular client;
2. Anyone subject to a substantial change in their working conditions "to their material detriment" has the right to resign and claim (unfair) dismissal. This is not about what's in the contract – their working conditions depend on what's become habit through the arrangements with the first employer. Again, you need to research the background;
3. You must consult the affected employees – failure to do so can result in a hefty compensatory award against you;
4. In any case, consultation will afford the opportunity to deal with any "material detriment" that employees taken on by you might suffer – if you can do this, to a reasonable standard, you can extinguish the employee's right to complain, resign and claim unfair dismissal.

This note does not constitute legal advice and is intended as general guidance only. If you would like further information or would like to arrange a meeting please email hina@partnerslaw.co.uk or call 07809 694400



7a D'arblay Street London W1F 8DF
w: partnerslaw.co.uk