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**PRESS
RELEASE**



TUPE OR NOT TUPE? **THAT IS THE QUESTION**

Pictured – Jay Bhayani

Anyone working in a HR or management role will know what I mean when I say as soon as TUPE is mentioned people want to hold their head in their hands or sit in a darkened room until its all over. It can be a painful experience and in the construction industry employers are particularly prone to being subject to these laws in view of the way they carry out some of their activities.

As an employment lawyer, being asked regularly to advise on TUPE situations, I have had to face the fear and get to grips with TUPE, not only understanding the legal and technical issues, but also explaining the practical implications to clients in simple terms. So in short, what's it all about?

TUPE stands for Transfer of Undertakings (Protection of Employment) Regulations 2006. Underlying the regulations are 2 concepts:

1. When an employer acquires a business, the rights that the existing employees of that business have in their jobs should be protected as against the new employer so that, in most respects, the new employer steps into the old employer's shoes, i.e. the employees pass automatically to the new employer along with the rest of the business.
2. A transfer of a business will go more smoothly if the workforce is kept informed and is consulted, and therefore, the regulations provide employees the right to be informed and consulted.

The regulations apply in the case of "Service Provision Changes" (SPC), that is where there is a change to who provides the service. Example: if you outsource the responsibility for providing security services at your premises to a specialist contractor or terminate the contract of one provider and bring in another or bring the service back in house, there will be a SPC so long as, prior to the change, there was an organised grouping of employees which had as its principle purpose the carrying out of those security activities.

Sounds quite simple really – the snag is that it is not always clear how you define 'activities', how many employees constitutes an 'organised grouping', what is 'principle purpose' and what happens if activities are transferred to several suppliers.

These and many more questions were answered at Watson Esam's last employer briefing on 6th May. If you missed the seminar and are keen to know more about TUPE, or any employment issue, you can contact Jay Bhayani, head of Watson Esam's employment team. She can offer advice and assistance and tell you about innovative ways to keep you and your HR staff informed and prepared, such as in house training and an employer protection scheme, backed by insurance and managed, not by a faceless call centre, but by Watson Esam's own staff.

For further information regarding TUPE or other employment issues, please contact Jay Bhayani at Watson Esam on 0114 275 3350 or jay.bhayani@watson-esam.co.uk.

Further information: Watson Esam is one of the oldest established legal firms in Sheffield practising from its offices in Paradise Square. A medium sized firm with approximately 40 staff, it is well known for delivering first class services to businesses in South Yorkshire. Jay Bhayani is senior partner and head of the firm's employment department. She is a former winner of Yorkshire Lawyer Employment Lawyer award (2005) and was short listed for the Yorkshire and Humberside Institute of Directors Adviser of the Year Award 2007. She specialises exclusively in contentious and non contentious employment law. She has dealt with high profile and complex cases acting primarily for employers. Jay is recognised as one of the leading employment law specialists in Yorkshire and is named in the Legal 500 as such.

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