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ADVANCE

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COMMERCIAL  
ASPECTS OF THE TUPE  
TRANSFER WHICH I  
WAS PARTICULARLY  
INTERESTED IN”

Cambridge Education

“ENGAGING, LIVELY AND  
BRILLIANTLY PITCHED  
COURSE”

Hitachi Rail Europe Ltd

**LONDON**  
28 APRIL 2016  
17 NOVEMBER 2016  
**MANCHESTER**  
10 MAY 2016  
10 NOVEMBER 2016

# TUPE TACTICS

HR PROFESSIONALS AND IN-HOUSE LAWYERS MUST ENSURE THEY FULLY UNDERSTAND THE TUPE REGULATIONS AND HOW THEY IMPACT ON OUTSOURCING AND BUSINESS TRANSFERS.

There are many challenges that those dealing with outsourcing and business transfers face and this course will look at these challenges in detail – including the new issues for employers to deal with, arising from the TUPE Amendment regulations which took effect in 2014.

This course covers in detail TUPE law and reflects on all the changes made to the regulations in recent years and proposals for changes in the future. The course also looks at the practical issues such regulations throw up, and addresses the need to ensure that you are protecting your business accordingly.

#### KEY TOPICS TO BE COVERED:

- When does TUPE apply?
- Who and what transfers
- Consultation and information
- Pre and post-transfer redundancy
- Variation of contract
- Recent cases – lessons learnt
- HR issues in TUPE transfers
- Commercial and practical considerations
- Impact of proposals for TUPE reform
- Case studies
- Throughout: what's recently changed in TUPE law?

#### WHO SHOULD ATTEND?

Human resource professionals, personnel directors and managers, industrial relations advisers, general managers, employee relations advisers and in-house lawyers.

#### SPEAKERS

**Jonathan Hearn**  
Legal Director, DLA Piper

**Mary Clarke** Partner, DLA Piper

**Emma Mills**  
Legal Director, DLA Piper



ENQUIRIES HOTLINE 0161 235 4545  
WWW.DLAPIPER.COM/ADVANCE



## IN-COMPANY TRAINING

As well as being the leading provider of public employment law training, Advance can deliver bespoke courses for your organisation following consultation about your actual training needs. In-company training is not only more cost effective to your organisation, it enables flexibility in terms of date, location and exact subject matter. The training is tailor-made to your organisation, using your own policies and basing case studies on situations relevant to your organisation and focusing on your key areas of concern. Since most of our trainers are practising lawyers, a key benefit unique to Advance is on-the-spot legal knowledge. In-company training assignments might be a one-day workshop focusing on a specific area of employment law through to multi-day delivery when we may provide an intensive course covering points of law and case law for board members and senior HR Managers. We can then provide cascade training on a more practical basis to line managers and other employees to give them the ability to understand new procedures, when to use them and the legal rationale behind them.

### 1 PHONE US WITH YOUR REQUIREMENTS

Call Rachel Cook on 0161 235 4562. We will discuss with you what type of training you require, how we could best deliver such training in your organisation, a price and how to proceed.

### 2 RECEIVE A TAILOR-MADE PROGRAMME

Rachel will then decide upon an appropriate trainer for your needs taking into account your organisation and the type of training you need. We will then work with this trainer to draft a programme specifically tailored for you along with a detailed proposal. You are not obliged at this stage to proceed with the training.

### 3 DECIDE TO PROCEED

If you wish to proceed we will prepare the supporting coursebook and materials and the precise content of the programme based on your company's policies, procedures and development requirements. You can have as much or as little input at this stage as you choose.

Organisations we have trained recently include: Cumbria County Council, Kerry Foods, Landmarc, Magnox South Limited, National Maritime Museum, Nationwide Building Society, New Balance Athletic Shoes (UK) Ltd, Postal Services Commission, Plus Dane Group, Provide, RPMI Limited, R R Donnelley Global Document Solutions, Sefton Council, Scottish Natural Heritage, Southport College, South Western Ambulance Service, Tata Global Beverages, University of Sheffield and Xchanging.



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TUPE remains one of the most difficult pieces of legislation to interpret, affecting not only personnel and HR professionals, but also financial and commercial directors and in-house legal counsel. These issues are particularly complex when outsourcing is involved, and they are compounded by the areas of uncertainty created by the Government's recent reforms of TUPE law, enacted by TUPE amendment regulations. Failure to comply with TUPE, or missing a TUPE tactic deployed by another party involved, can be extremely costly as well as having a detrimental effect on workforce morale. So it's imperative that anyone involved in TUPE related issues should be totally up to date. This one-day course is a 'must' for any organisation involved, or considering involvement, in outsourcing mergers or acquisitions. To know how the regulations should be interpreted, taking into account the very latest rulings and legislation, is essential— failure to comply can be extremely costly and have a damaging effect on workforce morale.

This course covers the basics of TUPE law, gives an update on the regulations, and examines recent case law, as this continues to affect how the existing and new TUPE regulations are interpreted. It also looks in detail at the tactics adopted by various parties involved in TUPE transfers. In recent years we have seen significant numbers of reported cases coming through under the TUPE regulations. For example the trainer will look at the line of case law deriving from the *Kimberley Group Housing Ltd v Hambley and ors* and *Angel Services (UK) Ltd v Hambley and ors* cases that have resulted in an important new approach by the Courts. It has become easier for new service providers to successfully dispute the application of TUPE. TUPE law changed in 2014: the course explains this in detail, with tactical ideas and practical consequences. Below are just some of the cases reported that are important to be aware of and which the trainer will highlight in order to consider their implications:

- *Oakland v Wellswood (Yorkshire) Limited*
- *Alemo-Herron v Parkwood Leisure Limited*
- *Clearsprings Management v Ankers*
- *Royal Mail Group Ltd v Communication Workers Union*
- *Klarenberg v Ferrotron Technologies GmbH*
- *OCS Group UK Limited v Jones*
- *Metropolitan Resources Ltd v Churchill Dulwich Ltd*
- *Tapere v South London and Maudsley Trust*
- *Guttridge v Sodexo*
- *Alemo-Herron v Parkwood Leisure Ltd*
- *Ceva Freight (UK) Ltd v Seawell Ltd*
- *Eddie Stobart Ltd v Moreman*

TUPE is of key importance to the public sector and those involved in public sector outsourcing. With the withdrawal of the Code of Practice on Workforce Matters in England the Government hoped to encourage more SMEs, mutuals, co-operatives, charities and social enterprises to enter the public sector market. Its major new pensions policy – New Fair Deal – has the same aims. This area will be addressed in the programme content, although, for those who have a particular interest, the subject is explored in greater detail in our course, **TUPE Transfers Involving The Public Sector** (25/02/16 – Manchester and 23/02/16 London).

### KEY SESSIONS INCLUDE

- How to prepare for the issues likely to arise when involved in tendering and outsourcing, mergers and acquisitions
- What to do when the outsourced contract ends
- Tactics for the customer in an outsourcing
- Tactics for bidders, to help win the work
- Tactics for the incumbent provider, seeking to retain the work
- Tactics for any transferor employer

### ABOUT ADVANCE

We provide training courses and conferences for a large number of delegates each year, many of whom return over and over again. Our training programmes help senior executives and operational managers increase their understanding of how legislation and regulation affects the way they manage their business. Our seminar style programmes are interactive, covering the practical impacts of current and future legislation and case decisions. Our courses are led by experienced lecturers who are at the front line both as practising lawyers and HR professionals.

# PROGRAMME

## Introduction

### Overview of TUPE regulations

- Explanation of how these impact on your business
- Understand the requirements of the Regulations

### TUPE: when it applies

- Acquired Rights Directive
- Service provision change
- Transfer of an economic entity
- Who is protected?
- What is an "undertaking"?
- Commercial and non-commercial ventures

### TUPE: who and what transfers

- Who is "assigned"?
- Which employees transfer?
- Right to object
- Pensions, including New Fair Deal
- Transferor's and transferee's liabilities
- Constructive dismissal
- Be aware of tactics used by others such as 'staff dumping'

### Unfair dismissal

- Who can bring a claim?
- Automatic unfairness
- Economic technical or organisational (ETO) defence

### Reform

- Overview and detail of the Government reforms of TUPE

### Consultation and information

- Latest developments on collective consultation
- Duty to disclose information
- Penalties of failing to consult

- Conducting an election
- Tactics

### Pre and post transfer redundancy

- Who is liable?
- Changing work practices and job descriptions
- Changing locations
- Fair selection criteria
- Tactics to get this right within the law

### Variation of contract

- Constructive dismissal
- Reorganisation
- Agreed variations
- When are all variations void?
- The ETO mechanism

### HR issues for TUPE transfers

- TUPE checklist
- How to improve profitability
- Public v private culture
- How effective communication can aid morale
- Contract retention
- Pension consultation
- Union issues
- Motivating staff

### Commercial and practical issues

- Business transfers and outsourcing
- Striking the right bargain, risk and price
- Warranties and indemnities
- Staff transfer agreements
- Data protection issues in business transfers

### Case studies

Throughout the day there will be hands-on practical examples of TUPE issues and situations. These will be led by the course leader giving delegates the opportunity to put into practice knowledge they have learnt throughout the day.

# TRAINERS

## Jonathan Hearn

Legal Director, DLA Piper

Jonathan works in all areas of employment law advising employers on transactions and HR policy, running litigation and leading in-company training programmes. He has acted in numerous outsourcing projects, for customers, contractors and project companies, from invitation-to-tender stage onwards. Jonathan's work in these and other TUPE transactions has involved representation, negotiation, the drafting of contractual terms and specific advice about the rules and tactics of collective consultation. He is also one of our most experienced employment law trainers.

## Emma Mills

Legal Director, DLA Piper

Emma regularly advises client on largescale projects including restructures and redundancies, contract variations and outsourcing/insourcing arrangements often including consultation with trade unions and other employee representatives. Emma also has significant litigation experience and represents her clients in a full range of Employment Tribunal disputes as well as in High Court actions involving high value breach claims and applications for injunctive relief. Emma regular presents seminars to clients and external contacts and provides comment to the media on developments in employment law.

## DLA PIPER – THE FIRM

### Employment

DLA Piper's Employment group is a market leading global practice with a strong reputation for delivering solutions-based advice and supporting clients in the day-to-day management of their people legal issues and risk. It includes more than 300 specialist lawyers, 100 of whom are based in the UK, who work on a strategic and operational level on both contentious and non-contentious matters across the corporate sector. The group advises on all areas of employment law, business and group reorganisations, trade union and employee relations, discrimination and diversity management, global mobility and data privacy. Our Pensions and Benefits team is a leading advisory practice advising employers on all aspects of pension scheme regulation, management and restructuring. We also have considerable experience of risk reduction measures, including investment strategies and asset backed funding structures. We also have expertise in creating and advising on short and long term compensation arrangements, share-based incentive arrangements, employee benefit and equity incentive plans that comply with the complex and rapidly changing rules of tax, pensions and employment laws.

## COURSEBOOK FOR SALE

Our coursebooks are prepared for each programme and are praised for the quality and the practical information they contain. If you can't attend, copies can be purchased for £150 including postage and packaging. To order please complete back page. Your book will be mailed on receipt of payment and after the programme has taken place.

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## EASY WAYS TO BOOK

**FAX** 0161 235 4505

### PHONE ENQUIRIES / CREDIT CARD BOOKINGS

Call **Rachel Cook** on **0161 235 4545** or, alternatively, call National Number **08700 111 111** and ask for Advance.

**NOTE** To confirm your booking, please complete this form and send it to the postal address below.

**POST** Please send this booking form or a photocopy, together with your cheque or purchase order number, to **Rachel Cook** at Advance 101 Barbirolli Square, Manchester M2 3DL.

**EMAIL** [advance@dlapiper.com](mailto:advance@dlapiper.com)

**DX** 14304 Manchester

## DATES AND VENUES

### LONDON 28 April 2016, 17 November 2016

DLA Piper Offices, 3 Noble Street, London EC2V 7EE

Tel: 08700 111 111 Fax: 020 7796 6666 Email: [info@dlapiper.com](mailto:info@dlapiper.com)

Nearest Tube: St Paul's, Bank or Moorgate

### MANCHESTER 10 May 2016, 10 November 2016

DLA Piper Offices, 101 Barbirolli Square, Manchester M2 3DL

Tel 0161 235 4562 Fax 0161 235 4505

If you do not receive joining instructions confirming timings and venue one week prior to the conference, please contact us.

**FEES** The delegate fee includes a comprehensive course book, lunch and refreshment breaks.

<b>1ST DELEGATE</b>	£489.00 (PLUS £97.80 VAT)	<b>£586.80</b>
<b>2ND DELEGATE</b>	£350.00 (PLUS £70.00 VAT)	<b>£420.00</b>
<b>3RD DELEGATE</b>	£300.00 (PLUS £60.00 VAT)	<b>£360.00</b>

### EARLY BOOKING DISCOUNTS

A discount is available for bookings received 2 months prior to the date of the course.

<b>1ST DELEGATE</b>	£469.00 (PLUS £93.80 VAT)	<b>£562.80</b>
<b>2ND DELEGATE</b>	£335.00 (PLUS £67.00 VAT)	<b>£402.00</b>
<b>3RD DELEGATE</b>	£235.00 (PLUS £47.00 VAT)	<b>£282.00</b>

Unless by prior agreement, payments have to be made before the programme takes place. Bookings will be acknowledged with a VAT receipt and joining instructions.

## NOTES

**CONTINUING PROFESSIONAL DEVELOPMENT** This programme is suitable for HR and Personnel Professional Development and 6 CPD hours are available.

**CANCELLATIONS, SUBSTITUTIONS AND TRANSFERS** If you are not able to attend, you may send a substitute. However, a refund cannot be made for cancellations received less than 20 working days before the course is scheduled to take place. There is an administration fee for delegates transferring to another programme and for cancellations received more than 20 working days before the course start date.

**DATABASE** Your details will be held on the DLA Piper database. If you would like to be removed please contact Advance 101 Barbirolli Square, Manchester M2 3DL.

There may be occasions when changes in programme content, speakers, timing and location have to be made for reasons outside our control. We maintain the right to decline bookings if they are not in line with course training objectives.



## CONFERENCE DATES Please tick one. (Please photocopy this form for additional delegates.)

- 28 April 2016, London  10 May 2016, Manchester  
 17 November 2016, London  10 November 2016, Manchester  
 I am unable to attend but would like to purchase the documentation for £150

## DELEGATE INFORMATION

**DELEGATE 1** Title \_\_\_\_\_ First name \_\_\_\_\_ Last name \_\_\_\_\_

Position \_\_\_\_\_

Company or organisation \_\_\_\_\_

Address \_\_\_\_\_

Postcode \_\_\_\_\_

Tel \_\_\_\_\_ Fax \_\_\_\_\_

**Email** \_\_\_\_\_

Please indicate any dietary or other special needs \_\_\_\_\_

**DELEGATE 2** Title \_\_\_\_\_ First name \_\_\_\_\_ Last name \_\_\_\_\_

Position \_\_\_\_\_

Company or organisation \_\_\_\_\_

Address \_\_\_\_\_

Postcode \_\_\_\_\_

Tel \_\_\_\_\_ Fax \_\_\_\_\_

**Email** \_\_\_\_\_

Please indicate any dietary or other special needs \_\_\_\_\_

**DELEGATE 3** Title \_\_\_\_\_ First name \_\_\_\_\_ Last name \_\_\_\_\_

Position \_\_\_\_\_

Company or organisation \_\_\_\_\_

Address \_\_\_\_\_

Postcode \_\_\_\_\_

Tel \_\_\_\_\_ Fax \_\_\_\_\_

**Email** \_\_\_\_\_

Please indicate any dietary or other special needs \_\_\_\_\_

Please tick here if you do not want to receive mailings from other organisations

## PAYMENT METHOD Please choose 1, 2, 3 or 4

**1 Cheque.** Make cheques payable to **DLA Piper**

Enclosed is my cheque for £

**2 Invoice**

My purchase order number is (if applicable)

**3 Credit card**

Please ring 0161 235 4545 with your credit card details

**4 Bankers draft**

I wish to pay by bankers transfer, and will also send a copy of this form to **Rachel Cook** at Advance 101 Barbirolli Square, Manchester M2 3DL.

**Account** DLA Piper **Account no.** 39115712 **Sort code** 01 05 31

**Bank** NatWest, Spinningfields Square, 182 Deansgate, Manchester M3 3LY

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