

## **Bolt Burdon Commercial Enews 16 June 2006**

### **The TUPE connection to Property**

Those investing in commercial property should be careful as they may find that TUPE (the Transfer of Undertakings (Protection of Employment) Regulations 2006) could be relevant to their transaction.

TUPE protects employees' rights when the ownership of a business changes hands by keeping the terms and conditions, but not the pension's provisions, of the employee the same as they were with the old employer.

In the event of a lease being forfeited, expires or is surrendered and the landlord or a new tenant carries on the same business as the old, TUPE may apply. What we need to ask in this situation is whether the identity of the business is still the same after the transfer.

TUPE may also apply where an owner of a building contracts out services and then changes the contractor or takes them back in-house. The provisions of TUPE will apply on the change and the employees will transfer to the new contractor/employer, for instance where you have the same cleaners cleaning the building, on any change, say to another cleaning company, the cleaners will transfer to that new company.

Where there is a transfer of a business, or even just a part of it, or a change in service provisions such as outsourcing, TUPE could apply.

If you decide to invest in property you should always check to see whether you are buying more than just the building and always verify what the situation is with services in the building such as managing agents, cleaning or security services. An investor would not want to find themselves facing an unfair dismissal claim by reason of having failed to comply with the TUPE regulations, which could cost them their good name as well as money.

Here at Bolt Burdon our commercial property department will be only too happy to assist with your commercial property issues. Please contact Sylvia Abaleke at [sylviaabaleke@boltburdon.co.uk](mailto:sylviaabaleke@boltburdon.co.uk) or on 020 7288 4738. Alternatively, visit our website at [www.boltburdon.co.uk](http://www.boltburdon.co.uk)

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