

NHS England to DHSC Transfer

TUPE and Employment Protection Frequently Asked Questions

Reviewed position as at 1 September 2026

This FAQ explains the employment protections that may apply when NHS England (NHSE) functions and employees transfer to the Secretary of State, operating through the restructured Department of Health and Social Care (DHSC), or to another receiving body.

The legal mechanism has not yet been finally confirmed for every transfer. Depending on the destination and facts, employees may transfer under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), a statutory transfer scheme providing TUPE-like protection, or arrangements applying the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector (COSOP).

The Government has confirmed that it will follow TUPE-like principles, whether TUPE or another statutory mechanism is used, in line with COSOP. The Health Bill is not yet law. It completed Committee Stage on 16 July 2026 and is scheduled for Report Stage in the House of Commons on 7 September 2026. The Bill, transfer schemes and timetable may change.

The current programme working date is 1 April 2027 for the transfer of relevant NHSE employees and most functions into DHSC, subject to Parliament. Some functions and staff are expected to transfer to ICBs or other bodies. Internal programme material indicates that separate design and transfer consultations are intended, each lasting at least 45 days. Earlier papers envisaged consultation from October 2026, but an August 2026 programme paper records that the target operating model and timetable are delayed and proposes a detailed update in early September. The consultation start date should therefore be treated as provisional until a revised timetable is formally published.

This FAQ provides general information and is not legal or financial advice. Employees should obtain advice about their own circumstances before objecting to transfer, resigning, retiring, accepting changed terms or making redundancy or pension decisions.

The legal framework

1. What is TUPE?

TUPE protects employees when a business, undertaking, service or identifiable part of one organisation transfers to another employer. Where TUPE applies, employees assigned to the transferring undertaking normally transfer automatically with their employment contracts, continuity of employment and most employment rights preserved.

2. Does TUPE definitely apply to the transfer from NHSE to DHSC?

No final determination has been published for every transfer.

TUPE regulation 3(5) excludes an administrative reorganisation of public administrative authorities, or the transfer of administrative functions between public administrative authorities, from the definition

of a relevant transfer. This may be relevant where statutory functions move from NHSE to the Secretary of State.

The exclusion does not automatically decide every case. Some activities may amount to economic activities, and the position may differ for functions moving to DHSC, ICBs or other bodies. The Government is therefore preparing for TUPE or another statutory transfer mechanism applying TUPE-like principles.

3. What has the Government committed to?

In a Parliamentary answer on 3 March 2026, the Government said it would follow “TUPE-like principles, whether TUPE or another statutory transfer mechanism, in line with” COSOP. It also said recognised trade unions would be formally consulted and engaged on measures related to the transfer and that contractual terms would not be changed without proper consultation and engagement.

This is an important commitment, but it does not mean that every provision and remedy in TUPE will automatically apply if the legal mechanism is a statutory scheme rather than TUPE itself.

4. What does the Health Bill provide?

Clause 2 of the Bill, as amended in Public Bill Committee, would allow the Secretary of State to make one or more schemes transferring NHSE property, rights and liabilities, including employment contracts, to the Secretary of State, an ICB, a section 223 company, a Special Health Authority, an NHS trust, an NHS foundation trust, a Local Health Board or another public body.

A scheme may make provision that is the same as or similar to TUPE. The Bill gives a power to create the scheme; it does not reproduce every TUPE protection in the Bill itself.

5. What is COSOP?

COSOP is Cabinet Office policy for public-sector staff transfers. It is not legislation and is not, by itself, directly enforceable in the same way as TUPE. Its central principle is that staff should be treated no less favourably than if TUPE applied. It normally supports continuity of employment, transfer of contractual terms and liabilities, and appropriate public-service pension protection.

6. What is a TUPE-like statutory transfer scheme?

It is a scheme made under legislation that can transfer employment contracts, rights and liabilities even if ordinary TUPE does not apply. It can reproduce, adapt or add to TUPE protections. “TUPE-like” must not be assumed to mean “identical to every TUPE regulation”. The final scheme must be checked provision by provision, including its treatment of consultation, dismissal, objection, remedies, pensions, collective agreements and later contractual changes.

7. What is the current Parliamentary position?

As at 1 September 2026, the Health Bill has completed Commons Committee Stage. Report Stage is scheduled for 7 September 2026. It has not completed the Commons, the Lords or received Royal

Assent. Any publication should therefore describe abolition and transfer as proposed and subject to Parliament.

Scope, destination and timing

8. When is the transfer expected?

The current programme working date is April 2027, subject to Parliament and commencement of the necessary legislation. Government material has also described the policy as merging functions into DHSC by March 2027. The precise legal transfer date, and whether all transfers occur on one date, must be confirmed in the final legislation and transfer schemes.

9. Who will be the receiving employer for staff moving to DHSC?

Under the current Bill, the statutory transferee would be the Secretary of State. In practice, transferred employees would work in the restructured DHSC and become civil servants. The final documentation should identify the legal employer, employment status, relevant Civil Service rules and any consequences for nationality, security clearance, pension and collective bargaining.

10. Will all NHSE employees transfer to DHSC?

No. Some functions are expected to transfer to ICBs or other public bodies. NHSE has confirmed that regional staff delivering specified direct commissioning functions are expected, subject to consultation and legislation, to transfer to host ICBs from April 2027 to form offices for pan-ICB commissioning.

Each employee needs a clear route map showing the function, receiving body, proposed date, legal mechanism, proposed measures and consultation process.

11. How will it be decided who transfers?

Under ordinary TUPE principles, the issue is whether the employee is assigned to the transferring undertaking or organised grouping. Relevant factors include the work actually performed, time spent on the function, team purpose, management and funding arrangements, and whether the assignment is permanent or temporary. There is no universal percentage test.

A statutory scheme may instead name employees or apply its own designation and assignment rules. Job title alone should not decide the outcome. Mixed, cross-cutting and recently reorganised roles require individual consideration.

12. Will staff on leave or secondment be included?

Authorised absence does not by itself remove an employee from a transfer. Staff on maternity, adoption or other family leave, long-term sickness absence, career breaks, suspension or secondment must be included in workforce mapping and consultation where appropriate. NHSE guidance for comparable statutory transfers expressly requires such staff to be identified.

13. Is the transfer the same process as the current restructuring and redundancy programme?

No. They are connected but legally distinct.

The Health Bill transfer scheme concerns the movement of functions, employees, property, rights and liabilities. The transformation programme separately concerns future organisational design and the Government's ambition to reduce the combined NHSE/DHSC workforce by 50% by March 2028. NHSE regional restructuring and voluntary redundancy activity are also separate workstreams.

An employee may therefore be affected by role design, selection, redeployment or redundancy before or after the legal transfer. Each process needs its own business rationale, information, equality analysis, consultation and fair decision-making.

13A. What if an NHSE function or employee is transferring to an ICB or another receiving body rather than DHSC?

The same core questions must be answered separately for each receiving body: what function is moving, which employees are assigned or designated, what legal mechanism will be used, what measures are proposed, which terms and liabilities will transfer, what pension arrangements will apply and which consultation forum will be used.

NHSE's published direct-commissioning update anticipates regional staff in specified functions transferring to host ICBs to form offices for pan-ICB commissioning. Internal papers also record staff concerns that some teams affected by transfers to other organisations have experienced role or team changes described as engagement rather than formal consultation. Engagement about possible design does not remove any later duty to provide full transfer information or to conduct meaningful collective and individual consultation where the law or transfer scheme requires it.

14. Does the 50% workforce ambition mean that 50% of every NHSE team will be dismissed?

No. It is a combined workforce ambition across NHSE and DHSC, measured against March 2025 and intended to be reached by March 2028. It does not prescribe a 50% reduction in every team or identify which individuals will transfer or be redundant.

The programme has referred to voluntary exit and redundancy, recruitment controls and natural turnover, while not ruling out compulsory redundancy. Media estimates and reports of regional variation illustrate the scale and uncertainty but do not determine any employee's legal position.

15. Will employees have to apply for their jobs to transfer?

Where TUPE applies, employment transfers automatically and employees do not normally apply to the new employer. A TUPE-like statutory scheme would also normally provide for automatic transfer.

This is separate from competition, matching or selection for posts in a future organisational structure. Internal programme material says no employee will move into a new role before their employment has transferred to DHSC, but the final design and filling-of-posts process remains subject to consultation.

Contracts, pay and collective arrangements

16. Will continuity of employment be preserved?

Yes, for employees who transfer, this is an express Government and programme commitment. Under TUPE, the original start date is preserved. A TUPE-like scheme is expected to achieve the same result.

The documents must separately confirm legal continuity and the recognition of previous NHS or other service for Agenda for Change entitlements, annual leave, sick pay, redundancy, pay progression and other service-related benefits. These concepts can have different contractual definitions.

17. What happens to existing employment contracts?

Under TUPE, the contract continues with the new employer and most employment-related rights and liabilities transfer. The employee does not start again as a new recruit. The statutory scheme is expected to provide an equivalent result, but its wording will determine precisely which rights and liabilities transfer.

18. Will Agenda for Change terms transfer?

Contractual Agenda for Change terms in force at the transfer date should transfer under TUPE or receive equivalent protection under COSOP and a TUPE-like scheme. Agenda for Change includes express contractual terms, nationally negotiated collective terms, local agreements, policies, procedures and discretionary arrangements. The status of each item must therefore be identified rather than treating the handbook as a single indivisible entitlement.

19. Will the transfer of Agenda for Change be static or dynamic?

This has not yet been formally confirmed. Under ordinary TUPE, the legal default for post-transfer changes to collective agreements is generally static where the new employer is not able to participate in the bargaining that produces those changes.

This means collectively agreed Agenda for Change provisions in force at the transfer date can transfer, but later national pay awards or other later amendments would not automatically bind DHSC if the Secretary of State/DHSC is not a participant in the relevant bargaining machinery. This is the effect of TUPE regulation 4A.

A dynamic arrangement—under which future Agenda for Change changes continue to apply—could still be created by the statutory transfer scheme, an express contractual provision, a collective agreement, participation in the relevant bargaining machinery or a specific employer commitment.

The transfer consultation and scheme should therefore answer expressly:

- whether future national Agenda for Change pay awards will apply;
- whether pay steps and progression will continue;
- whether future changes to allowances and contractual handbook provisions will apply;
- how the NHS Staff Council machinery will relate to DHSC; and
- how long any agreed arrangement will last.

Until that is confirmed, employees should not be told that the transfer is definitely dynamic. The safer current description is: **existing collectively agreed terms are intended to be protected at transfer; automatic entitlement to future Agenda for Change changes remains unresolved and ordinary TUPE would usually produce a static result.**

20. Will existing rights remain protected after the transfer, or do they expire after a set period?

Transferred contractual rights do not automatically expire after one or two years. Under TUPE there is no general time limit on protection. A transfer-related detrimental change can still be invalid years later if the transfer remains its sole or principal reason.

Protection does not mean every term is immutable forever. A term may later change lawfully where, for example:

- the change is genuinely unrelated to the transfer and is agreed through the normal contractual process;
- the contract already permits the change;
- the change improves the employee's terms;
- there is an economic, technical or organisational reason involving a change in the workforce and the employee agrees; or
- a specific rule applies to collectively agreed terms.

After one year, collectively agreed terms can be renegotiated under TUPE only if the employee's contract is no less favourable overall as a result. Occupational pensions have separate rules. If a statutory scheme rather than TUPE is used, the scheme must be checked to ensure it does not create different limits or exceptions.

21. Can DHSC move transferred employees immediately onto standard Civil Service terms?

There is no confirmed proposal that transferred staff will lose their contracts at transfer. A change made because of the transfer is restricted under TUPE. COSOP also expects treatment no less favourable than if TUPE applied. Internal programme material recognises material differences between Civil Service and Agenda for Change structures and says future arrangements will be consulted on.

Receiving an offer of Civil Service terms voluntarily is different from automatic transfer on protected terms. Employees should be given a clear written comparison and advice before accepting any replacement contract.

22. Can DHSC harmonise NHSE and Civil Service terms later?

Not simply because operating two sets of terms is inconvenient. Harmonisation is not, by itself, a valid reason for transfer-related detrimental changes. There is no automatic harmonisation date. Any proposal must identify its legal basis, the terms affected, whether consent is sought, the equality impact and the consequences if agreement is not reached.

23. Will basic pay and allowances be protected?

Contractual basic pay should transfer or receive equivalent protection. Contractual overtime, on-call payments, recruitment and retention premia, high-cost-area supplements, protected pay and other allowances may also transfer. A genuinely discretionary benefit may have different protection. Every pay component should be listed and its status confirmed before transfer.

Future pay awards, pay progression and grade mapping are separate questions and remain unresolved.

23A. Is there an agreed mapping between Agenda for Change bands and Civil Service grades?

No final or universally agreed equivalence table has been identified. Internal material records concern about provisional Civil Service grade estimates being attached to vacancies and about possible de facto downgrading. Agenda for Change bands and Civil Service grades arise from different job-evaluation and pay systems, so an indicative comparison is not, by itself, a contractual regrading decision.

Any proposed mapping should disclose the evaluation method, role content, pay range, pension and benefits, location allowances, progression, equality impact and appeal or review process. A grade label must not be used to reduce transferred contractual pay or other protected terms without a lawful basis and proper consultation. The transfer consultation and later filling-of-posts process should distinguish clearly between transfer of the existing contract, evaluation of a role in the future structure and selection for that role.

24. What happens to annual leave, sick pay and family-leave entitlements?

Contractual entitlements normally transfer, including outstanding holiday, contractual sick pay, contractual family-leave pay and service-related enhancements. Statutory rights continue independently. The transfer documents should confirm how prior service is recognised for each entitlement and how outstanding balances are recorded.

25. What happens to NHSE policies?

It depends on whether a provision is contractual, non-contractual or discretionary. The label attached to a policy is relevant but not conclusive. A provision may be incorporated through the written contract, Agenda for Change, a collective agreement, a previous transfer commitment, an individual variation, clear mandatory wording or established custom and practice.

NHSE's first internal review identifies 18 policies or guidance documents containing elements considered to have a high chance of being contractual. They include baby loss, business travel and expenses, employee volunteering, employment breaks, excess travel, flexible working, learning and development, legacy HEE long-service awards, the procedure for concerns about doctors and dentists, on-call arrangements, parental leave, legacy pay-protection policies, recruitment and retention premia and additional-responsibility allowances, removal and relocation, reservists, service recognition, special leave and working carers. The review says the status of the lease-car scheme, organisational-change policy, professional registration and Trade Union Partnership Framework Agreement remained unresolved.

This internal review is useful evidence, not a final legal ruling, and some policies contain a mixture of contractual entitlements and non-contractual process guidance. A policy-by-policy and employee-by-employee schedule should identify the source and exact wording of each right, the relevant legacy cohort, whether an entitlement has already been approved or is in payment, and the proposed

treatment after transfer. It is unsafe to say either that all NHSE policies remain forever or that all DHSC policies apply immediately.

25A. Are approved flexible working, pay protection and allowances safer than general policy wording?

Often, yes. NHSE's internal review treats approved flexible-working arrangements as formal contractual changes even though the general policy may not itself be contractual. It also identifies existing payments and defined benefits—such as pay protection, high-cost-area supplements where payable, on-call enhancements, excess-travel arrangements, relocation payments, recruitment and retention premia and additional-responsibility allowances—as requiring detailed contractual treatment.

That does not make every policy outcome permanent or identical for every employee. Entitlement may depend on the relevant legacy policy, eligibility criteria, an approval already given, the contractual workplace, a review clause or the reason for a later change. Employees should retain the approval letter, contractual variation, relevant policy version and payslips, and the employer should map each element rather than relying only on a generic policy title.

26. Will collective agreements transfer?

Collective agreements applying to transferring employees normally transfer under TUPE. They may cover pay, hours, leave and redundancy terms. Post-transfer changes require the separate static/dynamic analysis in question 19. The statutory scheme should identify each collective agreement and the continuing bargaining arrangements.

27. Will trade union recognition transfer?

Under TUPE, recognition arrangements can transfer where the transferred undertaking maintains a distinct identity. If it does not, recognition may not continue automatically under the ordinary TUPE rule. Recognition and bargaining can nevertheless be preserved or replaced by agreement or by the statutory scheme.

The Government has committed to formal consultation with recognised unions. Future recognition, bargaining units, facility time and representation arrangements should be written into the consultation outcome or transfer documentation.

Pensions, nationality and individual circumstances

28. What happens to NHS pensions?

Occupational pensions require separate treatment. TUPE regulation 10 generally excludes old-age, invalidity and survivors' benefits from automatic transfer, although accrued benefits remain protected and some early-retirement benefits may fall outside that exclusion.

COSOP provides additional public-sector pension protection, normally through continued access or a broadly comparable arrangement. Broad comparability concerns the overall value and range of future benefits and contribution requirements; it does not require identical benefits.

The final documents must confirm whether employees remain in the NHS Pension Scheme, enter the Civil Service scheme or receive another arrangement, and what happens to accrued service and any bulk-transfer option. No pension or retirement decision should be based on informal assurances.

29. What do Civil Service nationality rules mean for staff transferring to DHSC?

Civil Service nationality rules apply separately from TUPE and immigration law. Internal DHSC guidance dated 5 August 2026 states that assigned employees will transfer on TUPE or TUPE-like protections with contracts and continuity preserved, but that those protections do not override the nationality rules applying when a person becomes a civil servant.

The guidance says exemptions are limited, exceptional, normally require Cabinet Office approval and are unlikely. It also says there are currently no reserved posts in DHSC, while noting that this could be reviewed as roles are designed.

This is potentially a serious exception to automatic transfer for affected employees. Every potentially affected employee should receive an early, confidential, written assessment, the legal basis for the decision, information about any exemption request, alternative receiving roles or redeployment, equality considerations, representation and an appeal or review route. No one should rely on a generic FAQ for an individual nationality decision.

30. What happens to visa holders and sponsored workers?

Right-to-work and immigration rules are separate from Civil Service nationality eligibility. The August 2026 DHSC guidance says an existing right to work does not change merely because of organisational change and that a transferring employee would not need to reapply where the role remains the same. It also says DHSC intends to support affected staff with a new visa application where the role and visa conditions change, subject ultimately to compliance with Civil Service nationality rules or an approved exemption.

Visa and sponsorship cases are fact-specific. Affected staff should receive specialist immigration advice before any change of employer, sponsor, occupation code, role, location or duties.

31. What happens to flexible-working arrangements and reasonable adjustments?

A contractual flexible-working arrangement normally transfers. The receiving employer also has its own Equality Act duty to make reasonable adjustments. Equipment, workplace-adjustment records, homeworking arrangements, accessibility and support should be mapped before transfer, with the employee's consent and appropriate data protection.

32. Can the employer change work location or office attendance?

It depends on the contractual workplace and mobility provisions, the link to the transfer, the statutory scheme, any genuine ETO reason, consultation, practical detriment and equality duties. Internal programme material says office locations will form part of formal consultation and that location changes will be subject to engagement and consultation.

A substantial detrimental relocation or change in working conditions may create legal rights. Employees should seek advice before refusing a change or resigning.

33. What happens to fixed-term employees, secondees, agency workers and contractors?

Fixed-term employees assigned to a transferring function may transfer. Secondees require individual analysis of their substantive employer and function. Agency workers are not normally NHSE employees merely because they work there, although prescribed agency-worker information is relevant to consultation. Independent contractors do not ordinarily transfer as employees, but their commercial contracts may transfer. Outsourced-provider staff may be affected by a separate service-provision change.

34. What happens to grievances, disciplinary cases and employment claims?

Under TUPE, most employment-related rights and liabilities transfer, including many contractual, discrimination, holiday-pay, grievance, disciplinary and tribunal matters. A statutory scheme can provide the same result. Employees should be told in writing who will own each live case, which procedure applies and how confidentiality and records will be managed.

Information, consultation and organisational change

35. What information must be provided?

Under TUPE, each employer must inform appropriate representatives of its own affected employees, in writing and in good time, about the transfer date, reasons, legal/economic/social implications and proposed measures. The transferee must provide the transferor with information about its proposed measures so the transferor can inform its representatives. Prescribed agency-worker information must also be provided.

Employees should receive clear written information about whether they are proposed to transfer, their destination, the legal mechanism, terms, pension, measures, timetable and routes to challenge errors.

36. What are “measures”?

Measures is a broad concept covering proposed changes such as pay dates, location, attendance, reporting lines, working patterns, policies, systems, pensions, structure, redundancies and collective bargaining. If no measures are envisaged, affected employees must still be informed. If measures are envisaged, consultation must be undertaken with a view to seeking agreement.

37. How long must TUPE consultation last?

TUPE has no fixed minimum period. Information must be provided long enough before transfer to permit meaningful consultation. Separate collective-redundancy minimum periods may apply.

Internal transformation material says two distinct consultations—design and transfer—are intended, each lasting a minimum of 45 days. Earlier papers envisaged consultation from October 2026. A later August communications paper says the target operating model and critical pathway are being revised, with a detailed programme update proposed for early September and a joint staff event on 16 September. The October start date is therefore not presently safe to state as fixed. The 45-day

programme commitment should not be confused with a statutory TUPE minimum, and the revised timetable should be issued in writing.

38. Who must be consulted?

Where an independent union is recognised, the employer consults the appropriate union representatives. Otherwise it consults existing appropriate representatives or specially elected representatives. Since 1 July 2024, direct consultation may be permitted if there are no existing representatives and the employer has fewer than 50 employees or fewer than 10 employees are transferring. That exception is unlikely to displace collective union engagement for transfers on this scale.

39. Do individuals also need consultation?

TUPE's formal process normally operates through representatives, but individual consultation may be required for assignment, contractual changes, adjustments, relocation, redundancy selection, redeployment and other personal consequences. Collective consultation does not replace a fair individual process.

40. Does consultation give staff or unions a veto?

No. Employers must disclose adequate information, consult genuinely, consider representations and seek agreement on measures. Agreement is not required on every issue, but a predetermined or inadequately informed exercise may be unlawful and may undermine later decisions.

41. What employee information must NHSE provide to a receiving employer?

If TUPE applies, employee liability information must normally be supplied at least 28 days before transfer. It includes identity and age, written particulars, relevant disciplinary and grievance records, collective agreements and actual or reasonably anticipated claims. A statutory scheme may impose equivalent or additional requirements.

Employees should be allowed to check material facts, including start dates, reckonable service, pay, allowances, work location, adjustments and the function to which they are assigned.

Internal nationality work shows why verification matters: ESR records may be incomplete, may record only one nationality for a dual national, and may not by themselves establish Civil Service eligibility or immigration status. Potentially adverse decisions should therefore be based on an individual, confidential assessment with an opportunity to correct the underlying data, not on an automated or unverified data extract.

Redundancy, dismissal and objection

42. Are employees protected from dismissal because of the transfer?

Under TUPE, a dismissal is automatically unfair where the sole or principal reason is the transfer itself. A transfer-related dismissal may avoid that automatic rule if there is a genuine economic, technical or organisational reason involving changes in the workforce, but the employer must still act fairly and comply with redundancy, equality and consultation law.

Equivalent protection should be set out expressly if a statutory scheme is used.

43. Can redundancies take place before transfer?

Yes, but the transfer cannot simply be used as a reason to remove employees whom the receiving employer does not want. A genuine separate restructure or redundancy exercise can occur, provided there is a lawful rationale and fair process.

The prospective transferee may, with the transferor's agreement, begin qualifying collective redundancy consultation before transfer. This does not make the outcome predetermined or prove that any dismissal is fair.

44. Does transfer prevent later redundancy?

No. It protects against dismissal because of the transfer, not against every genuine future redundancy. A later process still requires a lawful reason, genuine consultation, fair pools and selection, consideration of alternatives and compliance with contractual and statutory entitlements.

45. What is an ETO reason?

An economic, technical or organisational reason involving changes in the workforce may include essential cost saving, new technology, genuine restructuring, changes in functions or workplace location. The label is not enough: the employer must prove the actual reason and the workforce change.

46. Can an employee refuse to transfer?

Under TUPE, an employee can object. An ordinary objection usually means employment ends at the transfer date without a dismissal and normally without redundancy pay or unfair-dismissal compensation. Employees should not assume that refusal produces redundancy.

The statutory scheme must confirm whether it reproduces this right and consequence. Individual advice is essential before objecting.

47. What if the transfer causes a substantial detrimental change in working conditions?

TUPE may allow an employee to treat employment as terminated where the transfer involves a substantial change in working conditions to their material detriment. This is different from an ordinary objection and is fact-sensitive. Advice should be obtained before resignation or termination.

Enforcement, equality and next steps

48. What is the remedy for failure to inform and consult under TUPE?

An employment tribunal can award up to 13 weeks' uncapped pay per affected employee where TUPE's information and consultation duties are breached. Liability may fall on one or both employers. If a statutory scheme is used, its wording will determine whether and how equivalent procedures and remedies apply.

This should not be confused with the separate collective-redundancy protective award, whose maximum increased to 180 days' pay from 6 April 2026.

49. What are the tribunal time limits?

Time limits are strict. For relevant events before 1 October 2026, most TUPE claims remain subject to the existing three-month limit. For relevant events on or after 1 October 2026, specified TUPE tribunal limits increase to six months under the Employment Rights Act 2025 reforms. Acas must normally be notified first and early conciliation affects calculation of the deadline. Advice should be obtained immediately rather than waiting for an internal process.

50. What other Employment Rights Act 2025 changes may matter?

The Act does not decide whether TUPE applies. Relevant wider changes include the 180-day maximum collective-redundancy protective award from 6 April 2026, the six-month tribunal time limit from 1 October 2026, and expected January 2027 commencement of a six-month ordinary unfair-dismissal qualifying period and stronger dismissal-and-re-engagement protections. The applicable commencement regulations and transitional rules must be checked at the relevant date.

51. Does the Equality Act 2010 continue to apply?

Yes. Discrimination, harassment, victimisation, reasonable-adjustment and public-sector equality duties continue. Equality analysis is required for function mapping, organisational design, matching, selection, relocation and redundancy. Particular attention is needed for employees on leave or absence, disabled staff, carers, lower-paid staff and groups shown by data to be disproportionately affected.

52. What weight should be given to press and HSJ reports?

Reliable media reporting is useful context on the scale, pace, workforce reductions and operational risks. The Guardian and ITV reported the original abolition announcement and expected job reductions; HSJ has subsequently reported voluntary exits, unequal regional reductions, pay differences and consultancy work on pay and culture.

These reports do not decide whether TUPE applies, who is assigned to a function, what an individual's terms are or what the statutory scheme will provide. Those questions must be answered from legislation, official transfer documents, contracts, collective agreements and formal consultation material.

53. What is confirmed as at 1 September 2026?

- The Government proposes to abolish NHSE, subject to Parliament.
- The Bill allows functions and staff to move to the Secretary of State and other NHS or public bodies.
- A statutory scheme may provide protection the same as or similar to TUPE.
- The Government has committed to TUPE-like principles in line with COSOP.
- Transferring employees are intended to keep current contracts and statutory continuity at transfer.

- Recognised unions are to be formally consulted on transfer measures.
- The current programme working date is April 2027, subject to legislation.
- Separate design and transfer consultations are planned; internal material indicates at least 45 days for each.
- The detailed programme timetable is being revised; earlier references to an October 2026 consultation start should not be treated as fixed until the revised timetable is published.
- NHSE's first internal review identifies 18 policies or policy elements as potentially contractual, while four policy areas remained under further review.
- The combined NHSE/DHSC workforce reduction ambition is separate from the legal transfer.

54. What remains unresolved?

- Whether TUPE applies directly to each transfer.
- The final wording, passage and commencement of the Health Bill.
- The contents of each statutory transfer scheme.
- The final destination and employee mapping for every function.
- The precise transfer date or dates.
- All proposed “measures”.
- Pension arrangements.
- Whether future Agenda for Change changes will apply dynamically or on a static basis.
- Pay progression, grade mapping and treatment of allowances and benefits.
- The methodology and appeal process for any AfC-to-Civil-Service grade comparison.
- Future union recognition and collective bargaining.
- The status of each NHSE policy.
- Work location and attendance requirements.
- The treatment of mixed roles, secondees, fixed-term staff and staff on absence.
- Individual outcomes under Civil Service nationality and immigration rules.
- The remedies available if a TUPE-like statutory scheme is not identical to TUPE.

55. What should employees do now?

- Keep contracts, variations, job descriptions, payslips and allowance records.
- Keep evidence of NHS and other recognised service and pension statements.
- Retain collective agreements, contractual policies, flexible-working agreements and reasonable-adjustment records.
- Record the functions actually performed, especially in mixed roles.
- Check that workforce mapping, job descriptions and personal data are accurate.
- Ask for the receiving body, legal mechanism, date, measures, terms and pension position in writing.
- Participate in collective and individual consultation.
- Seek union or legal advice before objecting, resigning, accepting a replacement contract or changed terms.
- Seek specialist pension, immigration or tax advice where relevant.

- Do not make irreversible decisions on the basis of rumours, media reports or informal verbal assurances.