



## ERSA POSITION STATEMENT on TUPE

In order to deliver the best possible service and to ensure that providers comply with the legal requirements of TUPE in relation to their staff, whilst ensuring a level playing field for all contractors of DWP & other employment contracts procured by government departments, ERSA will adopt the following position in regards to Transfer of Undertakings Protection of Employment (TUPE) within future contracts.

1. In all future contracts the government procuring department should state clearly in all tendering documentation whether TUPE applies or not to the service being procured.
2. DWP (or equivalent department) should request that all tenders that are submitted include a statement as to whether TUPE applies or not.
3. Where DWP (or equivalent) has determined TUPE applies and a bidder wishes to submit a tender on non-TUPE terms, TUPE costs should be added to the non-compliant tender for the purposes of evaluation
4. DWP (or equivalent) to facilitate where necessary the exchange of full and complete TUPE information during the tendering process and between out-going providers of the service and the incoming service provider. ERSA members will fully cooperate with this flow of information.
5. In the absence of an indemnity for redundancy costs (where applicable) DWP to consider carefully the implications of contracting with a provider who is offering non-TUPE terms and to provide a supporting statement to outgoing providers.