

Change in Contractual Terms



Typically, the only way to make a change to a contract of employment is through the mutual agreement of both parties. Forcing a change without consent is a breach of contract and could lead to claims against you in a civil court or employment tribunal.

It's Good to Talk

As soon as the decision has been taken to review employee contracts you should seek to engage with those affected. The objective should be to communicate the rationale for your changes and to engage with the employee, so they fully understand the thinking behind the changes. If they understand the context of the decision i.e. commercial/ competitive reasons to ensure sustainability of the business, they are more likely to agree to any changes.

Renegotiating existing contracts is best achieved through discussion with employees and undertaken in a positive manner so as to avoid negative views of the organisation and potential impact on productivity. Naturally all agreed changes to contracts should be recorded in writing.

Dependent of the organisation discussions can also be conducted via employee representatives or trade unions. An employer and employee can agree, either expressly or through an implied term in the employee's contract, that changes can be negotiated by representative on the employee's behalf. This can happen even if the employee is not a member of the relevant recognised trade union that is undertaking the talks.



Carefully Review Current Contracts

Over time many businesses, as they grow, can see a need for changing contractual terms but be wary of any terms that have not kept pace or are not your up to the current standard format. Often contracts include flexibility clauses, in which the employee will give consent for the employer to change terms. Typically, the terms that can be automatically changed are limited so be sure to cover this with your legal representatives.

Benefit of Change

Providing incentives to help reach an agreement, such as 'buying out' a contractual term in exchange for a new one - or offering extra pay or leave in exchange for, say, new shift patterns can be a good way to arrive at a compromise.

Stand Off

If an agreement has not been possible and you've undertaken a full consultation, your next option would be to serve notice to terminate the existing contract and offer re-engagement on new terms.

You will need to follow a fair dismissal process - and if you're dismissing 20 or more employees you must consult collectively with any recognised trade unions or workforce representatives.

Notes: