

Factsheet - Changing Terms and Conditions

If you want to change employees' contracts, for example their working hours, their pay or their place of work, you should be careful - if you just impose a contract change without seeking agreement, you will be in breach of contract and your employees may:

- make legal claims against you for constructive dismissal, if the breach is fundamental
- claim damages for breach of contract at a civil court ; or
- claim at an employment tribunal for unlawful deduction from wages if the change affects their pay.

Imposing a change is also likely to affect the employees' level of engagement, morale and performance.

However, it is entirely possible to make changes to the pay, terms and conditions of your employees without causing major problems and ForHR can help you to do this, having been involved in many such changes.

The important things to remember are:

- An existing contract of employment can be varied **only with the agreement of both parties**.
- You should fully consult with your employees (or their representatives, if you recognise a trade union or use other representatives), giving them as much information as you can, explaining and discussing the reasons for the change. Employees are far more likely to accept changes if they understand the reasons behind them and have an opportunity to express their views. Try to reach agreement with the employees.
- Think carefully about the impact any changes may have and work around these where you can. Always be prepared to justify the introduction of new terms as a "proportionate means of achieving a legitimate aim".
- You should carefully scrutinise the planned changes for any direct or indirect discrimination. For example, introducing new hours of work might affect more working mothers than men, so that could be indirect discrimination, unless you can justify it. Alternatively if, in trying to avoid indirect discrimination, you require just men to work the new hours, that could be direct discrimination.
- Record any agreed changes in writing and where the changes concern particulars which must be included in the written statement of terms and conditions, give written notification of the change to the employees, within a month of the change taking effect.
- If you can't reach agreement, but you need the change, you could impose the change, but if it is a significant change you will be running the risk that employees will leave as a result, then claim constructive dismissal. [You should ask for help if you are thinking of doing this.](#)
- An alternative would be to give notice on their existing contracts and offer them new ones. This is also risky, since the employees could claim unfair dismissal, so you must follow the ACAS code and your own procedures. [It would be wise to seek help if you are planning this.](#)
- If dealing with mass contractual changes, you will have specific collective consultation obligations if you dismiss and reengage more than 20 employees within a 90-day period. This includes the imposition of major contractual changes which leads to resignations, so take care.
- Note: if any of the employees have previously transferred under TUPE, this becomes more complex, [so please ask for advice.](#)