

HOW TO VARY A CONTRACT OF EMPLOYMENT

Introduction

Whether you have a written contract of employment, or just a verbal agreement with your employees, there are likely to be occasions when you wish to change things.

It could be hours or days of work, it could be pay or overtime rates. You might even be moving offices or introducing a uniform policy. It could be anything that is an explicit condition of employment or an implied term.

Having a policy in place, before a situation arises when it may be needed will help to ensure that a fair procedure is followed and you avoid the biggest pitfalls. Ideally, your contract of employment will be in writing and make it clear that reasonable changes can be made to working arrangements; so staff are aware from the start.

The most important aspects to consider are:

1. Change is best achieved by reaching an agreement with your employees.

Rarely do people like change, so having time to think about it, talk to friends and family, weigh up the alternatives all help to achieve the desired outcome.

2. Have a good business reason for the changes you need to make

If you just fancy a change, but have no sound reason for doing so, it is unlikely that you will be able to get employees to agree. So, be clear what you want the change to achieve.

3. Consult with your employees

Consultation is a two way process designed to reach agreement. It may well involve compromise on both sides. Explain to your employees the reason for needing to implement the change; saving money, improving efficiency or customer service etc. Explain what the impact will be on them and then listen to what they have to say. What are their objections? Is there a half way house to achieve the same outcome?

Can you get them to agree to a trial period, or a temporary change to see if it really does work?

You may be inclined to consider an incentive to those who accept the change willingly.

4. Implement the change with reasonable notice

Even when people have agreed, give a reasonable amount of notice for the new arrangements to start. Confirm the arrangements in writing.

5. Review

Make sure you go back and check that the changes are working, thank staff for making the change and review any problem areas.

What if employees don't agree to the change?

Simply imposing a change on staff is rarely considered to be a reasonable course of action, and is also most certainly going to lead to disgruntled employees, grievances or even staff resignations, claiming constructive unfair dismissal at Employment Tribunal, breach of contract claims and possibly claims for redundancy payments.

If the change really needs to take place this can be achieved by trying to reach agreement as detailed above; this shows you have been reasonable and then, if still no agreement can be reached, terminating employment and offering a new contract – but it is never without risk!

This guide is intended as a commonsense approach to the practicalities of varying a contract of employment. For advice about specific circumstances, reviewing or writing contracts of employment, please contact HRAActive to be sure that the details are appropriate and accurate to your situation.

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