

How to vary an employment contract

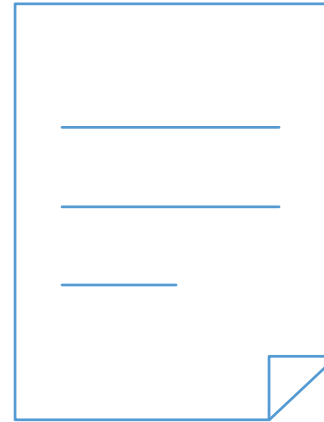
There are different steps to be taken when changing the terms of an employment contract, depending on whether the changes are being proposed by the employer or the employee, and depending on the nature of the changes.

First, obtain the employee's written consent by consulting with the employee directly, or if necessary, with the employee's representative. This is particularly important if the employee is a member of a trade union or staff association.

During consultations, the employer should explain the reasons for the changes, listen to any suggestions or alternatives put forward by the employee or representatives, and be willing to negotiate if needed. If disciplinary action results in a change to an employee's contract, such as a demotion, employers should refer to the relevant clauses regarding disciplinary procedures in the existing contract and in the employee handbook when consulting with the employee or representatives.

Referring to these provisions is crucial, as there is a risk that the proposed changes may become contentious, giving rise to disputes which may require mediation or even end up in Court. Attempting to vary an employment contract without the employee's agreement or abusing flexibility clauses will invariably give rise to problems. In such circumstances, the employee is within his or her right to refuse to work under the newly imposed conditions, resign and claim constructive dismissal.

The employer may also be accused of breaching the employment contract and may be brought before a civil court or employment tribunal as a result. Employees have the right to refuse proposed changes to their employment contract. If seeking legal recourse



after resigning from the post or being unfairly dismissed, employees must make a claim to the tribunal within three months less one day of ending their employment.

That being said, it is always preferred that any contentious issues be resolved through informal negotiations with the employer rather than taking legal action, so employees should always consult closely with their representatives to this end. Importantly, employees must say or do something to indicate that they disagree with the variations to their contract, or else their silence will be considered as agreement to the changed terms of their employment contract.

The best way to avoid protracted and costly legal disputes or litigation is to vary employment contracts in line with the rules and regulations of employment law.

For more information or for expert advice on business or personal legal issues, call us on 020 3475 6751 or via email at info@carterbond.co.uk

This content is not intended to be used as a substitute for specific legal advice or opinions. No recipients of content from this site should act or refrain from acting on the basis of content of the site without seeking appropriate legal advice or other professional counselling.