

# Varying your employees' terms of employment

Changing terms and conditions of employment is one way of reducing payroll costs without having to make staff redundant. But, as ever, it is important to follow the correct employment procedures and look out for a number of pitfalls.

Examples of changes to terms of employment include:

- scaling back working hours
- reducing the number of days of work
- cutting pay by a percentage.

You can vary a contract of employment in two ways. The first is if the contract of employment allows you to do so and the second is with the agreement of the employee.

If your contracts do not include any of these terms, you will need to obtain agreement from your employees to the changes you wish to make. This can be done in three ways:

- You can seek express agreement either with the individuals affected or, if you recognise a union, via a collective agreement.

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- You can impose the change and rely on implied agreement, which is shown by employees continuing to work, but this can be difficult.
- You can give notice to terminate existing contracts and offer re-employment on the new terms, but this is very risky and can lead to claims for unfair dismissal and wrongful dismissal.

As well as the possible employment claims mentioned above, there are other potential traps for the unwary employer relating to complex areas of bonuses, pensions, collective consultations and discrimination. In particular, if reducing the rate of pay, watch out that you do not accidentally take it below the national minimum wage.

It is possible to vary employees' terms of employment as an alternative to making redundancies but it can be risky and you should always take legal advice at the planning stage to minimise the risks.

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good on paper, even better in person

## Contact us

**Ware & Kay's specialist, Gill Wilkinson, has extensive experience in all aspects of employment law. Contact her on 01904 716000 or gillian.wilkinson@warekay.co.uk.**

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