

When changes are not agreed

If a change cannot be agreed, it's often best for the employer and employee to keep talking for as long as possible and make every effort to reach a compromise.

It can help both employers and employees if they:

- keep talking
- consider all options
- follow the workplace's internal policies, for example, employees should use the employer's grievance procedure if they are not happy with the proposed change

If there's no flexibility clause and changes cannot be agreed, an employer might still be able to make a change.

6. Forcing a change by dismissing and rehiring someone

If agreement cannot be reached an employer might decide to dismiss and rehire ('re-engage') the same employees under a new contract.

This should be a last resort, and only after [consulting employees](#).

If you are an employer considering this option, first think about:

- whether you have done everything you can to reach agreement
- whether the changes are absolutely necessary
- the risk to employee engagement and morale
- the risk of legal action

If deciding to dismiss and rehire, the employer should:

- follow a fair dismissal procedure
- give the employee enough [notice](#) (statutory notice or what's in the contract – whichever is longest)
- offer employees a right of appeal against their dismissal

Changes should not take place until the employee has been fairly dismissed and then rehired under the new contract.

Employees must keep continuous service if the new contract starts immediately after the old contract ends.

Risks for employers who dismiss and rehire

If an employee feels they've been unfairly dismissed from the original contract, there is a risk they could [make a claim to an employment tribunal](#).

If 20 or more employees are being dismissed and rehired, the employer can face legal action if they do not hold 'collective consultation' with any recognised trade unions or employee representatives.

Employers can be fined up to 90 days' pay per affected employee.

If you are an employer considering dismissing and rehiring employees, it is best to [get legal advice](#) first to check you are making the right decision.

When forcing a change might break a contract

If an employer forces a change without agreement or a flexibility clause in the contract, they might be in 'breach of contract'.

Breach of contract is when the terms and conditions of the contract are broken.

An employer could risk legal action if they force a change that is not covered by a flexibility clause.

Forcing a change without discussion or agreement could lead to:

- legal action if there is a breach of contract
- disputes
- lower levels of engagement and performance in the workplace
- employees working under protest

If there has been a breach of contract, an employee could make a claim against the employer for:

- damages at a civil court
- unlawful deduction from wages at an employment tribunal, if the change affects pay
- constructive dismissal at an employment tribunal, if the breach is fundamental and significant – for example, if an employee felt they were forced to leave a job because the employer made their pay a lot less

Making changes to employment contracts can be a complex legal matter.

You can also speak to an [Acas helpline](#) adviser who will explain possible next steps and the risks and benefits of each. Acas advisers cannot tell you what to do or give [legal advice](#).