

Changing terms of employment

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What happens if, as an employer, you want to make changes to your employees' terms and conditions of employment? We highlight some key questions you need to consider.

Download the infographic [here](#).



CHANGING TERMS

This flowchart summarises the main questions you wish to make changes to employees' terms and conditions of employment. This is a high level summary only, which is not a substitute for legal advice.

COLLAS CRILL

Is the employer planning to change a contractual term?

YES

Does the employer have an express right to amend the terms?

NO

Employee consent will be required. Is the change a minor one which is unlikely to be controversial?

NO

It is advisable to seek express employee consent to the change. Does the employee give consent?⁵

NO

Does the employer want to dismiss the employee and engage them on new terms? Is the employer comfortable with the legal risks?⁶

YES

Hold meeting(s) with employee to discuss their proposed termination. Give genuine consideration to any alternatives.
If no workable alternatives and employee still does not

... if no workable alternatives and employee still does not consent, give notice of termination.

1. It is important to remember that terms can be contractual though they are not contained in the employment contract. Contractual terms can be found in other documents, result of verbal agreement, or arise from custom and practice.
2. The employer may be able to implement the change, but it is important that they do so in a way that does not breach their implied duties, such as the duty of trust and confidence. This usually means that the change must not be unreasonable and sufficient notice must be given.

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