

## Consulting

If you're proposing employment contract changes, you should fully consult with all affected employees, workers and any relevant employee representatives.

You must have already provided [initial information about the proposed contract changes](#).

### What consultation is

Consultation is when you talk and listen to affected employees or workers and any trade union or other relevant employee representatives. During consultation you should:

- help them understand the reasons for the proposed changes
- ask for their feedback on the proposed changes
- answer any questions
- respond to any concerns
- listen to any reasons people may have to object to the proposed changes
- consider any other proposals they may put forward
- consider if you should make any revisions to the proposed changes to address any points raised

Some employees and managers may find a period of change difficult. You should offer help and support, for example through an employee assistance programme (EAP) if there is one.

### Why you should consult

Employees and representatives are much more likely to support changes if they:

- understand the reasons behind the proposals
- have the opportunity to give their views about them
- trust that you have genuinely considered their views and taken them on board

Effective consultation can help you to:

- work together with employees and representatives to find the best solution to whatever has led to the proposed changes
- gain useful insights from employees' knowledge about their roles and customer needs
- build trust and keep good working relations
- keep employees motivated and maintain productivity, even during periods of uncertainty about change
- prevent potential disagreements, tensions or conflict in your organisation
- make sure the process towards any change is fair and reasonable

If employees or representatives feel you have not fully consulted them about a contract change, this can:

- significantly reduce the chances of reaching agreement

- damage morale, working relations and productivity in your organisation
- lead to increased levels of stress or absence
- damage the reputation of an organisation or brand, making it difficult to attract new employees
- lead to strikes or other industrial action, if there's a trade union

There may also be legal risks if you make a contract change without holding genuine and meaningful consultation with employees and representatives.

For example, depending on the circumstances, it might lead to legal claims including breach of contract, unauthorised deductions from wages or [constructive dismissal](#).

## Who you should consult

Who you should consult with will depend on the circumstances. You might need to consult with individual employees or workers, their representatives, or both.

### Consulting individual employees or workers

Unless there's a formal arrangement that allows representatives to negotiate contract changes on behalf of employees and workers, you should always consult directly with each person affected.

### Consulting trade union representatives

If your organisation has a recognised trade union, you may have a 'collective agreement' that you must consult with the trade union about proposed contract changes affecting certain employees or workers. This group of employees or workers is known as the 'bargaining unit'.

If you have a collective agreement:

- the trade union can negotiate and agree contract changes on behalf of those in the bargaining unit (known as 'collective bargaining')
- the bargaining unit may include some employees or workers who are not union members as well as those who are union members

For example, there may be a collective agreement that the trade union can negotiate annual changes to pay on behalf of all employees who are in a particular role or who work in a certain department.

[Find out more about consulting with trade unions](#)

### Consulting information and consultation (ICE) representatives

If there are 50 or more employees in your organisation, employees have the right to request a formal agreement to be informed and consulted. This is known as an ICE agreement, as it's part of the 'Information and Consultation of Employees' regulations.

If you already have an ICE agreement in your organisation that covers areas affected by your proposed contract changes, you must consult with the elected representatives.

[Find out more about ICE agreements](#)

### Consulting employee forums

You may already have an arrangement in your organisation to consult employee representatives on specific areas of terms and conditions.

For example, some organisations may have:

- a joint consultative committee where employee and management representatives work together to promote good practice in the way an organisation is managed
- a pay review forum that considers annual changes to employees' pay or a forum that looks at health and safety at work

Consulting with employee forums can be a valuable way for:

- you to discuss proposed changes with employee representatives on relevant terms and conditions
- your employees to have a say in important decisions that affect them

Representatives in these forums should be chosen in an appropriate way and consulted on areas in which they have expertise.

[Find out more about consulting with employee forums and representatives](#)

## Consider risks of discrimination

When consulting, you must include all employees and workers who might be affected. There may be a risk of discrimination if, for example, you exclude or accidentally overlook:

- anyone who is absent, for example off sick or on adoption, maternity or paternity leave
- anyone who needs information communicated in a certain way, for example because of a disability or if English is not their first language

## Keeping everyone informed

You should keep everyone updated while you're consulting with employee representatives.

For example, some employees or workers might not be a member of a trade union so you should not rely on them receiving updates from union representatives.

## Acas support for employers

We can:

- help you set up an employee forum
- work with your management and employee representatives to solve problems

[Find out more about Acas tailored support](#)

## How you should consult

Consultation must always be a genuine and meaningful two-way discussion about whether a change is needed and what kind of change is appropriate. You must listen openly to any concerns or suggestions and seriously consider them before you make a decision about the change.

In some situations, consultation might involve negotiations about proposed changes, especially in organisations with an established collective agreement. In negotiations, you discuss a change with employees or their representatives to try to reach an agreement.

If employees or their representatives raise any questions, concerns or suggestions, you must:

- take them seriously
- try to understand everyone's needs and interests
- do everything you reasonably can to answer questions and address any concerns

### **If it's difficult to reach agreement at first**

Everyone should be open-minded during consultation. You should be prepared to reconsider your original proposal, for example if:

- there's something you may have overlooked
- another proposal is put forward that might work better

Reaching agreement is likely to be more difficult if employees or representatives have reasonable objections to your proposal, but you insist they agree to it.

If you're finding it difficult to reach agreement at first, you should discuss if there might be a suitable compromise. Everyone should:

- keep focused on trying to reach agreement for as long as reasonably possible
- consider if you can look at the problem from a different angle, including other people's perspectives
- encourage others to suggest alternatives they would consider acceptable
- explore if there is any way you could reach a compromise
- be patient and keep talking to employees and representatives – finding agreed solutions can take time
- consider what could happen if agreement cannot be reached

If you can reach a compromise, it's more likely that everyone will support it because they'll believe it's:

- been reached fairly and openly
- the best decision possible when everyone's views are taken into account

[Find out more about what you can do if you cannot reach agreement](#)

### **Do not intimidate or threaten employees or their representatives**

Employers must never intimidate or threaten employees or their representatives to try to force them to agree to a contract change.

You should carefully consider the best way to have discussions about how the organisation and its employees may be affected if appropriate changes cannot be agreed. However, you must never present a potential outcome to employees as a threat about what you will do if they do not accept your proposed change.

Any intimidating or threatening action, language or behaviour is likely to significantly damage trust, morale and working relations in an organisation.

There are also significant legal risks. For example, any contract change agreed because of intimidation or threats ('under duress') will not be legally enforceable.

An employer must not cause someone 'detriment' because of trade union membership or activities.

Detriment means someone experiences one or both of the following:

- being treated worse than before
- having their situation made worse

Examples of detriment could be:

- they experience [bullying](#)
- they experience [harassment](#)
- their employer turns down their training requests without good reason
- they are overlooked for promotions or development opportunities
- their employer reduces their hours without good reason

## Providing training for those involved in consultation and negotiations

If managers and employee representatives are trained to take part in consultation and negotiations constructively, this can:

- make discussions more effective
- increase the chances of reaching a solution that works well for everyone

Negotiating contract changes can sometimes be complex, challenging and stressful for those involved. If this happens, behaviours on both sides can sometimes reduce the chances of reaching an agreement.

Training can help all those involved in consultation keep discussions constructive and avoid unhelpful behaviours like:

- not listening effectively
- making assumptions about others
- insisting on a fixed outcome and refusing to consider other suggestions
- failing to genuinely explore others' needs and interests
- not being willing to consider things objectively
- using confrontational language or appearing aggressive
- being impatient
- adopting an attitude where someone must win and someone must lose
- not being open to creative ways of finding workable solutions

[Find out about Acas tailored training for your organisation](#)