

Contracts of Employment

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What is a contract of employment?

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A contract of employment is an agreement between an employer and an employee which sets out their employment rights, responsibilities and duties. These are called the 'terms' of the contract. Contract terms can come from a number of different sources. For example they could be:

- verbally agreed
- in a written contract, or similar document
- in an employee handbook or on a company notice board
- in an offer letter from your employer
- required by law, like the requirement by your employer to pay you at least the minimum wage
- in collective agreements and
- implied terms.

The employment contract is made as soon as you accept a job offer. If you start work it will show that you accepted the job on the terms offered by the employer, even if you don't know what they are. Having a written contract could cut out disputes with your employer at a later date, and will help you understand your employment rights.

You and your employer are bound to the employment contract until it ends (usually by giving notice) or until the terms are changed (usually in an agreement between you and your employer).

Your employment contract doesn't have to be in writing, but you're entitled to a written statement of the main terms within two months of starting work.

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What is a Written Statement of Employment Particulars? My employee says I have to provide her with this.

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Employers are legally required to give their employees a written statement of particulars of employment. Every employee regardless of the number of hours worked has to be given this written statement, which sets out the main terms and conditions of their employment. This statement must be given within 2 months of the commencement of employment.

The information to be provided is specified in law and includes, for example, the specification of holidays and notice rights. It is permissible, within the written statement, to

refer an employee to alternative documents which contain details of some of the information required, providing such documents are current, accessible, and updated whenever necessary. Alterations in the particulars of the written statement must be individually notified in writing within one month of the change. Note, that the written statement is not the same as a contract of employment; however, it may be a summary of what is contained within the contract or contractual documents.

The Agency has published an advisory guide entitled [Advice on agreeing and changing contracts of employment](#)

The Agency has also published a [Self Help Guide on preparing a Statement of Main Terms and Conditions of Employment](#)

The Agency regularly holds [workshops](#) which aim to assist employers in drawing up the written statement of employment particulars and can be booked online.

If our answer or publications do not provide you with enough information please contact the Agency's Head Office: 028 9032 1442 - or our Regional Office: 028 7126 9639.

Q

I am an employer who is starting up in business and I've just taken on three employees. Do I have to give them anything in writing in terms of a contract of employment?

A

The law requires you to provide your employees with a written statement of particulars of employment. Every employee regardless of the number of hours worked has to be given this written statement, which sets out the main terms and conditions of their employment. This statement must be given within 2 months of the commencement of employment. The information to be provided is specified in law and includes, for example, the specification of holidays and notice rights. It is permissible, within the written statement, to refer an employee to alternative documents which contain details of some of the information required, providing such documents are current, accessible, and updated whenever necessary. Alterations in the particulars of the written statement must be individually notified in writing within one month of the change. Note, that the written statement is not the same as a contract of employment; however, it may be a summary of what is contained within the contract or contractual documents.

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If I wanted to change my employee's hours of work that is in their written statement how do I do this?

A

To amend terms and conditions of employment, an employer, should in the first instance consult with their employees to reach agreement on the proposed variation(s). Once agreement has been reached it is recommended that a written record of agreement is retained. Further information and guidance on varying terms and conditions is available in the Agency's Advisory Guide [Advice on agreeing and changing contracts of employment](#)

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Q

My employer says he can change our terms and conditions any time he wants because we don't have any contract of employment. Is he right?

A

Employers are legally obliged to provide their employees with a Written Statement of Employment Particulars setting out their main terms and conditions of employment, within 2 months of the commencement of employment. This statement forms part of the contract of employment which also includes implied terms, statutory terms, and terms and conditions which have been established through custom and practice.

Therefore, even in the absence of a written contract or statement of employment particulars, a contract of employment does exist. In order to vary terms and conditions of employment an employer should in the first instance consult with employees to reach agreement. Further information and guidance on varying term and conditions is available in the Agency's Advisory Guide [Advice on agreeing and changing contracts of employment](#)

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Is a contract of employment enforceable if it is not signed?

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This will depend on the circumstances of the case. A contract of employment is an agreement made between an employer and an employee, rather than a piece of paper. Where there is

written confirmation of this agreement, the terms within it may still be enforceable even if it is unsigned, if in practice the employer and employee have both been working to it.

It is important therefore that employees do not assume that not signing a written confirmation of the contract means that they have not agreed to it or that it is not enforceable. If an employee does not agree with the terms outlined in a written version of the contract, in order to demonstrate that they have not accepted these terms they must write to the employer at the time the contract is issued, explaining which parts of the contract they don't agree to and why. If they are going to start/continue working for the employer at the same time, they should explain that they are doing so 'under protest'. This should prompt a period of negotiation with the employer over the terms of the contract with the view to reaching mutual agreement.

If no agreement can be reached, the parties may benefit from legal advice.

What can an employee do if they believe that their employer is in breach of contract?

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The first step would be for the employee to raise their concerns with the employer informally. If this does not resolve matters, they can consider raising a formal grievance. If this is not successful, the employee has the following four options:

- to agree to the change
- to resign (and, if the change is a fundamental one, make a claim for constructive dismissal if eligible)
- to refuse to work under the new terms (in which case the employer may discipline them, dismiss them, or allow them to continue working under the old terms)
- to make clear to the employer in writing that they do not agree to the change and that they are working under protest, and make a claim for breach of contract in the county court.

For further information on contractual changes or to discuss a situation specific to your workplace, please call the Agency's Helpline: 028 9032 1442 - or our Regional Office: 028 7126 9639.

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