

Change management – guide for employers

Restructuring or organisational change is a feature of most organisations' life cycle. Even where no jobs are threatened, the process of change can be stressful for employees.

Shadia El Dardiry suggests the best approach for employers to take.



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Most, if not all, organisations will embark on some form of restructure or organisational change at some stage in their life cycle, whether this is spurred on by external factors such as technological changes, an economic downturn or political events, or internal factors such as rapid growth or low profitability.

From an employment perspective, the key to successfully steering employees through change will involve employers:

- being aware of the disruptive nature of all change (even where no reduction in headcount is proposed) and effectively communicating and engaging with employees;
- being aware of their legal obligations when implementing changes; and
- thinking ahead to make sure they are ready, from a rules and policies perspective, for the changes envisaged.

Accept that the change will be disruptive and engage effectively with your employees

Change will be disruptive, even where no jobs are being put at risk. While some employees may embrace a move to an open plan office or to new premises, or the adoption of new technologies, others may feel apprehensive about what the change means for them or may openly reject the rationale for the changes being proposed. The impact on staff can be considerable and employers should be wary of underestimating the impact on productivity and morale.

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Engaging with employees at an early stage is crucial – not only will this allow you

to minimise any 'rumour mill', but it will increase the chances of getting employees on board with your proposals. Although employers aren't always legally required to consult with employees, it's often a good idea to do this anyway. In addition to giving employees a sense of ownership and say in the process, it will open up constructive communication channels through which they can voice their concerns to you and you can convey what change is being proposed and – crucially – why it is needed.

Through open communication, you will also be able to identify employees who may need particular convincing or those who feel lost in the process so that, in the end, no one is left behind.

Be aware of your legal obligations

Some of the changes being envisaged may amount to a change in the terms and conditions of employment of staff. For example, to meet consumer demand you may decide that the business needs to change its operational hours from the conventional 9–5 (or 10–6) model to one where every employee also does one early or late shift a week. Unilaterally imposing this on employees will be likely to amount to a unilateral variation of the employment contract and expose the business to a breach of contract claim. It is crucial to take all practicable steps to secure the consent of affected employees and record this agreement in writing.

If the employee refuses to agree to a change, you will need to consider whether you still want to implement it. If you believe the change is necessary, the only way forward may be to dismiss the employee. This option should be exercised with caution, and only after having sought legal advice.

A termination of employment with the offer of re-engagement on new terms and conditions will generally trigger the obligation to carry out a collective redundancy consultation if 20 or more

employees are affected, even if no 'redundancies' are envisaged in the sense in which this is usually understood (the deletion of roles).

It should also be borne in mind that a change in location can give rise to a redundancy situation, entitling the employee to a redundancy payment. This is often overlooked by employers, particularly when there is, at least in principle, 'a job for everyone' in the new structure.

In some circumstances, proposed changes may result in an increase in flexible working requests, for example if a change in premises means an additional hour's commute or a change in working hours means being unable to pick up children from school. Employers will need to consider these requests carefully and ensure that they make appropriate concessions for those who need them. Failing to do this may otherwise expose you to a discrimination claim.

Make sure you're ready to embrace the changes

Although disruptive, organisational change can also present exciting opportunities for both employers and employees. A change in premises, for example, can encourage different ways of working, such as working from home or working compressed hours, which can help employees achieve a better work-life balance.

New ways of working do, however, come with their own risks and considerations. For example, employers are still responsible for the health and safety of their employees, even when they are working at home. You'll also need to consider whether your existing policies and rules remain fit for purpose – are there data protection considerations that need to be addressed? Do you need to give your staff special training on how to keep information confidential?

From a more social point of view, how can you ensure that there is a 'critical mass' of employees in the office on a given day (if

this is needed) to maintain a friendly work environment? If some employees will be shifting to 100 per cent homeworking, how do you ensure that you can still require them to come into the office on particular days for team meetings or when required?

Adequately considering these scenarios and being ready for them is key to unlocking the full potential of new and creative ways of working, while mitigating risk.

Address these issues head on – and get excited about the future!

In short, organisational change will come with its fair share of employment issues at all stages of the process. With businesses often feeling the impact of organisational change for several years after the actual 'change process' has come to an end, it is crucial to get the process right. From an employment perspective, effective communication throughout, being aware of contractual and legal obligations, and having the right policies and procedures in place will be fundamental to both the short- and long-term success of an organisation's change programme.

FIND OUT MORE

For more information and advice for employers, please see our employers pages at <https://bateswells.co.uk/services/employment/employers/>

Our Employment team is happy to advise on the employment law implications of any planned restructuring or reorganisation of your organisation – please get in touch with a member of the team or your usual advisor.

