

## Enforcing a Reduction in Hours Can Lead to Claim of Unfair Constructive Dismissal

We are regularly asked for guidance on the correct procedure for reducing an employee's hours, often as an alternative to redundancy, when there has been a downturn in work volume.

Employers cannot just impose a change of hours on an employee without first conducting a consultation to discuss the change, the reasons why and the alternative options available. Where reasonable alternatives are raised by the employee, the employer should demonstrate that they have considered and assessed the practicalities and give feedback to the employee.

Getting this process wrong can result in claims for unfair dismissal. A recent case where a recruiter had a change of hours imposed upon him by his employer highlights the issues to consider.

Mr Decker worked for Extra Personnel Logistics and was working 32 hours per week when his Managing Director asked if he would reduce his hours to 16 per week following a loss of key contracts. The reduction of hours equated to a weekly reduction in pay of £205.

At a subsequent meeting Mr Decker explained he could not afford the reduction in hours and suggested 24 hours per week and a £7 increase to his day rate as an alternative. The Managing Director followed the meeting up with an e-mail where he implied this alternative had been accepted. However, shortly afterward the Managing Director said that the business could not offer a pay increase and put a new contract to Mr Decker which had to be signed. Mr Decker subsequently resigned.

The tribunal found the actions of the employer had left Mr Decker "no longer feeling valued" and "forced him out." The size of the pay reduction had represented a "fundamental breach" of his employment contract and constituted unfair constructive dismissal.

The key learning here is that an employer needs to prove there is a **fair reason for an employee to be dismissed** should it seek to impose a change of contractual hours.

Source: [https://www.peoplemanagement.co.uk/news/articles/recruiter-who-refused-pay-cut-awarded-17000-unfair-dismissal#\\_ga=2.88591955.994458803.1535968827-376249706.1513850342](https://www.peoplemanagement.co.uk/news/articles/recruiter-who-refused-pay-cut-awarded-17000-unfair-dismissal#_ga=2.88591955.994458803.1535968827-376249706.1513850342)

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