

## Is it possible to withdraw a job offer?

So you've gone through a recruitment process, found what looks to be a great candidate and they've accepted your job offer but now something's come up. Perhaps you've discovered that their previous experience or qualifications aren't quite what was claimed on their CV or in interview or perhaps you've spotted some public comments they've made online which don't fit within your company's values. You may no longer want them to start work for you but they've already accepted your offer and the contract has been signed. In this situation, can you withdraw the job offer?

Technically speaking, you can't withdraw the offer once it has been accepted. However, if the contract has been drafted carefully and is subject to suitable conditions it may be possible to argue that a condition has not been satisfied and that the contract should therefore not come into force.

Alternatively, it would be possible to give notice and terminate the contract before the employee starts work for you, but depending on the terms of the contract this could prove to be an expensive decision.

So, what do you need to consider when drafting your contracts and offer letters?

Firstly, they need to be clear on what they are conditional on. For example, satisfactory criminal record checks and proof of academic qualifications. If this is clearly stated and a condition isn't met then the contract technically won't come into force even if signed. It would therefore be possible to end the candidate's employment before it even started without needing to pay anything.

However, if there were no conditions or if those that were in place were met, the contract will need to be terminated and this will typically mean paying notice pay, unless the reason for termination is clearly set out in the contract as being something that would justify immediate termination without notice, for example, the candidate ceasing to be eligible to work in the UK or committing a criminal offence.

If the reason for termination doesn't fit within a condition or an immediate termination right, notice must be served under the contract. Where a probationary period applies, this may only be a couple of weeks' pay but in contracts where there is no probationary period this could require you to pay a number of months' pay to a candidate who never does any work for you.

In a situation where you are considering withdrawing a job offer that has already been accepted, it's therefore crucial to ensure that your documents are carefully drafted.