

## **Redundancy**

**Sometimes it is necessary to change the structure of the business or cut costs. This may lead to the redundancy of some positions. Handling this can be difficult and emotional. This guide should help.**

### **What is redundancy?**

A redundancy situation arises if:

- the job has disappeared or is about to disappear;
- the job has moved (by more than a reasonable distance);
- the requirement for the particular work is ceasing or diminishing, eg because of the introduction of new technology.

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### **Minimising compulsory redundancies**

It may be possible to avoid compulsory redundancies completely, or at least to minimise these by a variety of means. The options available could include:

- natural wastage;
- suspending recruitment activity;
- reducing overtime;
- reviewing the employment of temporary employees;
- short-term working;
- redeployment and retraining;
- early retirement;
- voluntary redundancy;
- considering the transfer of employees to alternative positions.

Before commencing the process of selection for redundancy, make sure:

That you have a consistent set of rules by which you will make selection, (e.g. - last in first out excepting where this leads to an important loss of skill)

That where there is more than one person doing a role, a clear process of selection is carried out. Ideally, tell all staff that cutbacks will be made and interview each to produce a consistent comparison of information from each.

That you consult with individuals or groups as per the following table:

<b>Potential numbers</b> (being made redundant in one establishment within 90 days)	<b>Action required</b>	<b>Timings</b>	<b>Comments</b>
Less than 20	Individual consultation	Consultation to begin in good time	
20 - 99	Election of representatives (see below), Consultation with representatives. DTI informed	Consultation to begin <b>at least 30 days before</b> the first dismissal takes place	Union consultation required where there is recognition
100+	Election of representatives (see below), Consultation with representatives. DTI informed	Consultation to begin <b>at least 90 days before</b> the first dismissal takes place	Union consultation required where there is recognition

During the consultation discussions the following are important:

- Stress that no final decision has been made as yet as to whether the employee's employment will be terminated.
- Obtain the employee's view on:
  - the redundancy situation;
  - his/her selection;
  - any suitable alternative employment.
- Consultation must take place **before** notice of termination is served.
- The consultation period should be at least in line with the above matrix.
- Failure to consult will render a dismissal unfair (although the compensatory award may be reduced if this was just a procedural error that did not result in the employee suffering any injustice ie the evidence shows that even if consultation did take place the employee would have been dismissed anyway).

Note that one-to-one consultation must also take place with any individuals affected before a final decision is taken.

Warning of impending redundancies should be given as soon as possible. Any evidence (such as memos etc) which reveals that management knew of definite impending redundancies some time before any announcement was made to employees will be prejudicial to the employer's case.

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### **Selection criteria**

It will be necessary for you to determine your selection criteria for redundancy, in cases where there is a 'pool' of employees from whom a number will need to be selected.

Selection criteria could include the following and should be applied consistently and objectively to avoid a claim on the grounds of discrimination

- volunteers;
- length of service (last in, first out);
- disciplinary record;
- skills/competencies required to perform the new/remaining role/s;
- attendance record: but ensure here that you don't fall foul of the Disability Discrimination Act;
- timekeeping record;
- level of experience required to perform the new/remaining role/s;
- qualification/training requirements.

Your criteria must be capable of objective verification and must be fairly applied. You should avoid criteria that could be regarded as directly or indirectly discriminatory such as selecting part-timers first.

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### **Alternative employment**

An alternative to redundancy which may suit the organisation and the individual is the transfer to an alternative role.

- Be pro-active when looking for alternative employment.
  - Don't make assumptions about what the employee will or won't accept.
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### **Redundancy pay**

Statutory redundancy pay is based upon the employee's age and length of service as at the date the notice period will expire, and his/her gross average wage up to a statutory maximum weekly amount. The current statutory weekly maximum is found in our key statistics.

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## **Notice period**

You will need to decide whether or not you require the redundant employee to work some or part of his/her contractual notice period. Payment in lieu must be made for any of the notice period not required to be worked and this will be tax free (provided this, plus any redundancy pay does not exceed £30,000) unless the employee's contract contains a specific clause allowing for payment in lieu of notice.

During the notice period (whether worked or not) the employee is also entitled to the protection of his/her other benefits eg private healthcare cover, company car.

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## **Confirmation**

You should confirm in writing the decision to dismiss an employee on the grounds of redundancy, explaining why he/she is redundant, what the terms are and the right of appeal.

Factors a tribunal will consider in deciding whether a redundancy dismissal is fair:

- Was sufficient advance warning given to employees?
  - Were the selection criteria reasonable and were they applied fairly?
  - Was consideration given to suitable alternative employment?
  - Did consultation take place with recognised trade union or elected employee representatives, if required?
  - Did consultation take place with the individual(s) selected?
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