



Redundancy Factsheet

Redundancy is one of the most difficult situations that employees can face and it is vital that all redundancies are handled carefully and sensitively. However, it can also be an upsetting and confusing time for the employer that has to make tough decisions about the future of their organisation and workforce. Being aware of employer responsibilities around redundancies, including the relevant employment law in this area, can ensure that the process runs smoothly and helps to reduce anxiety at this worrying time. Good communication between employer and employees is key.

The information contained within this factsheet will help employers to follow a fair procedure and ensure that they consult with employees appropriately.

1. When does a redundancy situation arise?

A redundancy only arises in the three very narrowly defined circumstances. Redundancy arises when there has been, or is going to be, either:

- the closure of the business
- the closure of the workplace/employer's site
- a reduction or cessation of work

If, and only if, one of these situations has arisen will the redundancy be a genuine one. The employer must be able to demonstrate that the employee's role will no longer exist. Redundancies may occur because new technology makes a job role unnecessary, an employer is forced reduce staff to cut costs or a business needs to close.

2. Redundancy Process and Procedure

Many organisations choose to establish a formal redundancy procedure and this can be useful but is not compulsory. The exact procedure will vary according to the timescale and size of the redundancy. However, the following stages should be considered in most cases:

- Planning and attempting to avoid redundancies
- Identifying the pool for selection
- Invitation of volunteers to avoid compulsory redundancies
- Consultation - both collective (in large scale redundancies of 20 employees or more) and individual consultation in all cases
- Notification to the Department for Business, Innovation and Skills
- Use of objective selection criteria
- Advance notice of individual consultation meeting
- Permitting a colleague/union representative to be present at consultation meetings
- Giving notice of redundancy
- Giving the employee the opportunity to appeal
- Considering suitable alternative employment



- Statutory or other redundancy payment
- Helping redundant employees obtain training or alternative work

Please see notes below for further details on each of these areas.

3. Planning and attempting to avoid redundancies

The first stage in any redundancy process should be consideration of ways in which the redundancies can be avoided. These discussions will be specific to the circumstances of each organisation. However, examples of ways to avoid redundancies may include:

- natural wastage
- recruitment freezes
- stopping overtime
- pay freezes
- offering sabbaticals and secondments

Obviously these suggestions will not apply to every organisation or to every redundancy situation. What is most important is that a careful planning stage takes place, and that redundancy is a last resort after all other options have been exhausted. It is useful to keep a record of all discussions at the planning stage.

It is also important to remember that employers may not be able to implement the proposals above without breaching the employee's contract. Therefore, care needs to be taken before attempting to carry out these steps.

4. Identifying the pool for selection

The group from which employees will be selected for redundancy (known as the selection pool) must be very carefully identified. Employers need to be aware that making redundancies without identifying the selection pool correctly will make the dismissals unfair.

The selection pool will usually consist of those employees:

- who undertake a similar type of work,
- who work in a particular department,
- who work at a relevant location, or
- whose work has ceased or diminished or is expected to do so

In many redundancies, a range of different selection pools may be identified depending on the specific circumstances.

5. Selection criteria for redundancy

In some cases the whole selection pool may be facing redundancy. However, where it is necessary to choose candidates for redundancy from the selection pool the decision must be based on objective selection criteria. Using consistent and measurable selection criteria will ensure that the decisions are

based on fairness, and means that the organisation will retain a balanced workforce who are best able to meet the organisation's current and future needs.

The selection criteria must be capable of being precisely described, objectively assessed and applied fairly and consistently. The criteria may include attendance records, disciplinary records, skills and qualifications, experience and performance.

Employers should be careful when choosing and applying selection methods to ensure they are not discriminatory. Selection decisions will not be made, (directly or indirectly) on the basis of gender, race, ethnic origin, sexual orientation, religion, disability, age, marital status, or trade union activities.

It is automatically unfair to select employees for redundancy for a number of reasons, including:

- trade union membership (or non-membership)
- part-time status
- pregnancy or maternity-related reasons

'Last In, First Out' (LIFO) used to be a popular method of selection. However, it is now considered unsatisfactory for age discrimination reasons. This is because those with a shorter length of service are more likely to be younger. It can still be used as a selection method but only alongside a range of other selection criteria, and the employer should be able to justify its use.

Selection from the pool using the criteria must be done by a fair process, and it is advisable to use a points system or scoring matrix. Where a scoring matrix is used the organisation will ensure that employees are aware of the scoring system from an early stage of the redundancy process. Where possible two managers should carry out the scoring independently and then add their scores together. The managers on the scoring panel must be of appropriate seniority and have a good knowledge of the employees being assessed.

It is also an idea to ask staff within the selection pool to complete the matrix and score themselves against the criteria. They will then be invited to a job discussion meeting to allow them to present their scores and the rationale behind them. The employee's contribution will be taken into account by the panel when making their scoring decisions.

The assessment by the scoring panel must always be in writing and supported with evidence where possible (e.g. attendance records, performance records etc). The panel members must be able to justify their decisions and scores if there is an internal appeal.



6. Voluntary redundancies

Once an employer has carried out careful planning and identified that redundancies do need to take place, then they may decide to offer a voluntary redundancy package and invite volunteers to come forward. This may reduce employee numbers down to the required levels and avoid compulsory redundancies having to take place.

Voluntary redundancies will not apply to all redundancy situations, but should be considered as an option where possible.

It is important to note that a voluntary redundancy is not a resignation. Employees who have volunteered for redundancy are in the same legal position as those facing compulsory redundancies, and are still entitled to a statutory redundancy payment.

7. When is collective consultation necessary?

ACAS state that “The purpose of consultation is to provide as early an opportunity as practicable for all concerned to share the problem and explore the options.”

The law requires the consultation to be meaningful – it is not enough to just inform employees.

In situations where there are fewer than 20 employees to be made redundant then collective consultation does not apply and instead the employer must just consult individually with employees (see section 9 below).

However, collective consultations with recognised trade unions or elected representatives must currently start at least:

- 45 days (reduced from 90 days from 6 April 2013) beforehand for proposed redundancy dismissals of 100 or more employees.
- 30 days before notification of redundancies for 20-99 employees. (However, the 20 or more employees rule is currently the subject of litigation which may affect when the consultation provisions apply in future.)

If collective consultation is required, it must be completed before notice of dismissal is given to any of the employees. If the employer fails to consult then they could be liable to pay compensation.

In organisations where there is no recognised trade unions or employee representatives, the employer must enable the election of representatives by the employees for the redundancy consultation.

At the start of the consultation process the employer is legally obliged to give the following information to the representatives:

- the reason for the redundancies
- the number of proposed redundancies and their job types
- the number and descriptions of employees affected
- the proposed methods of selection
- the procedure to be followed in dealing with the redundancies
- the method of calculating redundancy payment

The collective consultation should include:

- ways of avoiding the dismissals
- reducing the number of employees to be dismissed
- mitigating the effects of dismissals, and
- the reasons for dismissal

8. Notification to the Department for Business, Innovation and Skills

Employers who are obliged to collectively consult must send form HR1 to the Department for Business, Innovation and Skills of the proposed redundancies. This will only apply in situations where 20 employees or more are facing redundancy.

9. Individual consultation

In all cases employers are also required to consult individual employees. A Tribunal may find it unfair if an employer consults just with unions and not with individual employees. In situations where the proposed redundancies involve fewer than 20 employees the employer is only required to carry out individual consultation. However, some employers may choose to also consult collectively with employees as a group.

The employer should arrange for consultation to start as early as possible, ideally when the redundancy proposals are in their formative stage. The employer must ensure that individuals have sufficient time to consider the proposals. Employees should also be actively encouraged to put forward their own suggestions, arguments and ideas, and the employer should consider these and provide a response.

The law does not provide definitive time scales for individual consultation but requires reasonable consultation in the circumstances. A minimum of four weeks is suggested to allow a meaningful consultation to take place. Where necessary time scales may need to be extended in situations where proposals are still being considered and alternatives to redundancy explored.

- Individual employees should be informed in writing that they are 'at risk' of redundancy. A group meeting/presentation may take place with all those employees facing redundancy to explain the reason for the potential redundancies, and how many jobs are at risk etc

- This will then be followed by an individual meeting to consult with the employee and discuss the potential redundancy. This will form the first part of the consultation
- Employers should meet with 'at risk' employees at least one more time during the consultation process. However, it is advisable to meet employees on a regular basis (once a week if possible) to ensure that they are kept well informed of developments. The actual number of meetings will depend on what the employee has to say, and the employer must be seen to consider any arguments that the employee puts forward
- Employers must be able to demonstrate that the employee has been invited to a meeting and had an opportunity to discuss in the meeting (1) the reasons for the redundancy, (2) the procedure that will be followed, (3) the pool for selection, (4) the selection criteria, (5) any alternative employment and (6) how the redundancy payment will be calculated
- Employees should be able to comment on the proposals and be informed of any redeployment procedure and options available
- It is advisable that the discussions and outcomes of the meetings are documented
- Employers should allow the employee to bring a trade union representative or work colleague to the consultation meetings in the usual way

10. Suitable alternative jobs

For a dismissal to be fair, an employer must offer any suitable alternative job to the employee to avoid their redundancy. This alternative work could be with the employer's own organisation or with an associated company. Whether a position is suitable depends on:

- the terms of the job being offered
- the employee's skills, abilities and circumstances
- the pay (including benefits), status, hours and location of the job

If an employee unreasonably refuses a suitable alternative then they forfeit their right to a statutory redundancy payment. An employee is entitled to a four week trial period in a new role. If the employer and employee then agree that the role is not a suitable alternative, the employee reverts to being redundant.

11. Redundancy dismissals

At the end of the individual consultation period the employer will need to reach a decision on whether or not the employee is to be made redundant.

Redundancy should be the last resort after all other alternatives have been explored.

If the employee is to be made redundant, then they must be informed in writing and be given an explanation of the redundancy payment that they will receive.

12. Period of notice

An employee is entitled to a period of notice as well as a redundancy payment. An employee must therefore be given either statutory minimum notice or contractual notice, whichever is the greater.

If there is no written contract in existence then employees should be given the statutory minimum legal notice which is:

- one week's notice if the employee has been employed by the employer continuously for one month or more, but for less than two years
- two weeks' notice if the employee has been employed by the employer continuously for two years, and one additional week's notice for each further complete year of continuous employment, up to a maximum of 12 weeks

13. Appeals

An employee should be allowed to appeal against the decision to make them redundant. It is advisable to inform employees of their right to appeal in writing. (See section 11)

14. Redundancy Payment

An employee being made redundant with two or more years' continuous service has the right to receive:

- a statutory redundancy payment
- a written statement setting out the payment amount and how it was calculated

The payment due to each employee under the statutory redundancy payment scheme is based on:

- the employee's age
- the employee's amount of continuous service, subject to the minimum of two years and a maximum of 20 years
- the employee's weekly gross pay - up to a limit of £450 (from 1st Feb 2013)

The employee will receive:

- 0.5 week's pay for each full year of service where your age was under 22
- 1 week's pay for each full year of service where your age was 22 or above, but under 41
- 1.5 week's pay for each full year of service where your age was 41 or above

Some employers may choose to enhance the statutory redundancy payment and pay more than the level set by law. However, this is not compulsory and will depend on the circumstances of each organisation.

15. Time off to seek alternative employment

An employee who is under notice of dismissal by reason of redundancy is entitled to take reasonable paid time off during their normal working hours to seek alternative employment, or make arrangements for training necessary for future employment. To qualify for this entitlement the employee must have two years continuous employment at the date on which the notice period expires.

16. Support for employees

Redundancy can be extremely distressing for those employees involved, and can cause shock throughout the workforce. Announcement of redundancies will invariably have an adverse impact on morale, motivation and productivity. The negative effects can be reduced by sensitive handling of redundant employees and those remaining. For example:

- Managers should be trained to handle redundancies with sympathy and clarity.
- Employees may need support to mount an effective job search. For example, employees could require help to refresh their interview skills, up-date CVs and respond effectively to job advertisements.
- Employers may also choose to contact the local job centre to enquire about the services they can provide for employers in redundancy situations
- It may be helpful to contact other local employers to enquire about vacancies

Employers always need to prioritise those employees who are losing their jobs and ensure that that they are handled with care, sensitivity and fairness.

However, those employees who have survived the redundancy situation should not be forgotten. The organisation's future is largely dependent on the effectiveness of those employees left behind. The CIPD points out that a demoralised workforce, anxious about job security and critical of the handling of the redundancies of colleagues, is not likely to display commitment, enthusiasm and initiative.

Therefore the key aims and objectives for the organisation should be to:

- give all the workforce a full explanation of the redundancy situation
- demonstrate the necessity for change
- be honest about future employment prospects and clearly explain any changes to working arrangements
- handle redundancies in a responsible and fair way

- have a positive attitude about the future and demonstrate to surviving employees the value of their role in that future
- conduct, where necessary, individual discussions with remaining employees to reassure them of their importance and employment prospects
- ensure that managers have the required skills and attitude to operate effectively during periods of traumatic change and, where necessary, provide training.

Further guidance for employers on handling redundancies can be found at:

1. **Acas** – general advice and support:
www.acas.org.uk/index.aspx?articleid=1611
2. **GOV.UK** – tool for calculating statutory redundancy pay:
<https://www.gov.uk/calculate-employee-redundancy-pay>
3. **GOV.UK** – information for employers on making staff redundant:
<https://www.gov.uk/staff-redundant>

Notes compiled by Clare Cooper with information from the following sources:

1. CIPD www.cipd.co.uk
2. Acas www.acas.org.uk
3. GOV.UK www.gov.uk

Please note that the information contained within this document is for your guidance only. Professional advice should always be obtained.

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