

REDUNDANCY PREPARATION

Guidance Note



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Definition of Redundancy

Redundancy can be identified when work of a particular kind, or at a particular place, has come to an end or diminished, or it is expected to come to an end or diminish.

A redundancy situation may arise when:

- An employer has stopped, or intends to stop, the business for which the employee was employed; or
- An employer has stopped, or intends to stop, carrying on the business in the place where the employee was employed; or
- The requirements of the organisation to carry out work of a particular kind has, or is expected to, come to an end or diminish; or
- The requirements of the organisation to carry out work of a particular kind, has, or will, come to an end or diminish.

A redundancy situation is likely to occur because of one of the following circumstances:

- Closure of the entire organisation/club;
- Closure of a particular part of the organisation in which an employee works;
- Closure of a particular part of the organisation in a particular location;
- The organisation needs fewer employees with particular skills to meet the requirement, leading to a reduction in the size of the staff;
- Restructure.

This will apply to all organisations regardless of their size.

Risks

Redundancy is one of 5 potentially fair reasons to terminate someone's employment as long as the following points are achieved:

- There is a genuine redundancy situation;
- The employer has followed a fair procedure (for example, consultation and a fair selection criteria);
- The employer has offered alternative employment, if any is available.

If the above points are not met then the employee could claim at Employment Tribunal for unfair dismissal (as long as the employee has over 2 years' of continuous service). Redundancy makes up a significant share of the claims brought before Employment Tribunals.

In general employees making a claim will allege one or more of the following shortcomings:

- The redundancy was a sham, deliberately calculated to terminate the employee;
- The employee was terminated without appropriate consultation meetings;
- There was an unfair selection as the employer failed to use any selection criteria, or the criteria used were unreasonable, or were applied in an unreasonable way;
- There was a failure to make a legitimate effort to find alternative employment.

Employees can be dismissed fairly by reason of redundancy provided you follow the appropriate procedures. We would always recommend that you seek advice on any matter prior to taking action so that we can support you through the appropriate procedures.

GET IN TOUCH

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Rationale

When considering whether to proceed with redundancy, it is important to be aware that it is your responsibility to make every effort to avoid it. This is part of an employer's duty of care to their employees.

It is very important to establish the reasons why redundancies are being considered by preparing a compelling organisational rationale. You should document this at the start of the process and identify those affected. The written rationale would be expected by a tribunal and will be helpful in ensuring you receive accurate advice moving forward with any redundancy process.

There may be several reasons for considering redundancies including:

- The requirement to reduce costs;
- The result of changing working practices
- The re-organisation of work;
- New technology forcing a reduction of staff.

It is preferable in any redundancy situation to make strong decisions once, instead of there being a series of redundancies. These can weaken the morale of residual employees and affect the sustainability of the organisation overall.

Therefore, you should evaluate if the proposed redundancies will continue to meet the organisation's ongoing requirements for the foreseeable future – at least looking at a period over the next six months.

Alternatives

All alternatives to redundancy must be considered as redundancy is generally considered a last resort. You may wish to consider the following:

- Reviewing prices;
- Renegotiating supplier/distributor costs;
- Increasing sale/contract opportunities;
- Sell unprofitable parts of the organisation;
- Freezing recruitment;
- Banning overtime;
- Implementing lay-off or short time working;
- Introducing pay reductions;
- Considering where else in the organisation an employee could be placed, or what other skills the employee has to carry out other types of work;
- Ceasing temporary contracts and agency staff/casual staff.

It is crucial that full consideration is given to all alternatives, together with suggestions from the workforce throughout any consultations.

If compulsory redundancies are necessary, you should consider whether it is possible to select any employees who have less than 2 years' of continuous employment.

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Longer-serving employees at risk of redundancy have the right to take the role of a short-serving employee whose job they are able to fulfil and thereby “bump” those with only a short amount of service into redundancy. Additionally, the new Protection from Redundancy Act offers enhanced protection to expectant mothers and new parents. This is important when considering alternatives to redundancy as an individual in this category has the right to be offered a suitable vacancy if any are available.

Please note: workers employed on fixed-term contracts or part-time contracts cannot unfairly be selected for redundancy simply because they are not full-time or permanent employees.

A redundancy situation may be limited to one job, or to a group of jobs within a department, or across the board throughout the organisation. It is important to assess the knock-on effects of making a job redundant. A redundancy may result in a diminution of work elsewhere and thus, possibly, further redundancies, or there may be a need to absorb the residue of the redundant job within other roles which in turn could lead to a requirement for further training.

Further Preparation

We would recommend that before any meetings are held with potentially affected employees, that you seek further advice.

If the number of proposed redundancies affects 20 or more employees throughout the organisation, then there is **a statutory requirement to inform the Department for Business, Innovation and Skills (BIS)** using a HR1 form.

It is important to assess how many other redundancies are currently ongoing or planned within the organisation or any of its associated companies to ensure accurate information is provided to BIS. They require the following periods of notice before a redundancy decision can be fairly taken:

- 20 – 99 employees: 30 days’ notice;
- 100 or more employees: 45 days’ notice.

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