



Making Redundancies

Businesses regrettably have to make redundancies and it is a stressful time – both for employer and employee.

Getting it right can minimize the stress to both parties and avoid the possibility of legal proceedings.

If procedures are followed incorrectly, an employee may be able to bring a claim against the business at an employment tribunal. The claims could be for unfair dismissal, wrongful dismissal or even discrimination. These can be costly and time consuming for the employer.

It is really important that you understand the correct procedure.

Among the procedures employers must follow are:

- Decide if redundancies are really necessary and if so, how many. The employer must consult the Department for Business Enterprise & Regulatory Reform (formerly the DTI) 30 days before dismissal if they are going to make between 20 - 99 employees redundant, or 90 days if over 100 are to be dismissed.
- Mark the potentially redundant employees according to a defined non discriminatory scoring criteria. Consider such things as skills, experience, performance, attendance and disciplinary record. Agree scores with another manager to ensure objectivity. Inform the workforce as soon as possible to confirm the reasons for the proposed redundancy exercise and to confirm that no decision will be taken without full consultation with the affected employees. Consider asking for volunteers.
- Write to affected employees informing them of their provisional selection and inviting them to a meeting, giving them the right to be accompanied (enclosing a copy of the selection criteria). Explain that selection is subject to consultation and no final decision has been made at this stage. Give employees sufficient time between receipt of the letter and the meeting to consider their response.

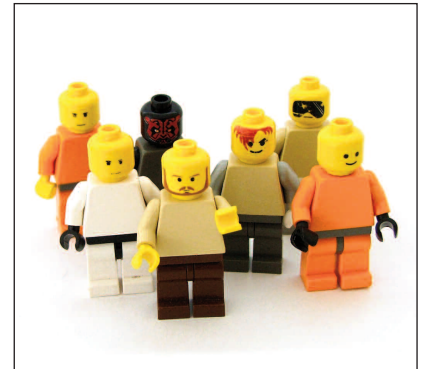
- Hold individual meetings. Review scores with employees. Provide details of alternative roles, even those on a lower grade with less responsibility. The alternative job offer must be made before the current job ends and the start date must be no more than 4 weeks after the old job ended. The first 4 weeks of the new job will be a trial period. During this time or when the 4 weeks have finished, the employee can still leave the job and claim dismissal and redundancy pay. The employer and employee can agree a longer trial period for the new job if they want. Four weeks is the minimum period.

- Invite ideas or suggestions from affected staff as to how to avoid redundancies. Explain the selection criteria in detail and ask for feedback. Consider employee suggestions. Allow a couple of days for the employee to respond.

- Follow up any suggestions made by employees to avoid redundancies and consider any representations they have made in relation to their scores. If necessary, adjust scores.

- Hold further individual meetings, giving the right to be accompanied. This should ideally be at least two weeks after the first meeting. At this meeting, if nothing has changed following the previous meeting, confirm that the employee has been selected for redundancy. Explain the redundancy package. This is calculated by taking the employee's age, average weekly pay and full years of experience to arrive at a figure.

- Write to redundant employees, setting out the decision to make them redundant and giving the right of appeal. Ensure proper contractual notice is given, or employees are given an appropriate payment in lieu. Confirm redundancy entitlement. Remember the employee is entitled to reasonable time off to look for work if he or she is working during their notice period. Consider help for employees to look for new employment.



- It is normal for employers to have an appeals procedure so that an employee can appeal against their selection for redundancy. If an employee appeals, hold a further meeting, giving the right to be accompanied. The employer must follow it fairly. Write to the employee with the final decision.

- A complaint to an employment tribunal will not normally be considered unless it is made within three months of the date on which the last of the dismissals takes effect.

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This factsheet isn't intended to be a comprehensive text on the subject of redundancies and employment law.

It is written for clients, and potential clients, of the Salisbury High Street solicitor, Whitehead Vizard, as a general guide.

For more advice on redundancies and employment law, please contact Jean Hendry at Whitehead Vizard to discuss your requirements in confidence on 01722 412141

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