

Redundancy

Redundancy encompasses three types of situation, namely business closure, closure of a branch, and reduction of the workforce.

Definition of redundancy

Dismissal of an employee will be by reason of redundancy if it is wholly or mainly attributable to the employer:

- Ceasing or intending to cease to carry on the business for the purposes of which the employee was employed by it (business closure)
- Ceasing or intending to cease to carry on that business in the place where the employee was so employed (workplace closure).
- Having a reduced requirement for employees to carry out work of a particular kind or to do so at the place where the employee was employed to work (reduced requirement for employees).

Collective consultation

Where 20 or more employees are being made redundant over a period of 90 days or less, an employer has a duty to inform and consult appropriate employee representatives. Where 100 or more redundancies are proposed, consultation must begin at least 45 days before the first dismissal takes effect. For less than 100 redundancies, the consultation period is 30 days.

Employers must notify the secretary of state at least 45 days before the first dismissal where the employer proposes to dismiss 100 or more employees within a 90 day period. Where between 20-100 redundancies are proposed, the notification period is 30 days.

Redundancy and unfair dismissal

An employee with two years' continuous service is entitled not to be unfairly dismissed. Whilst redundancy is a potentially fair reason for dismissal, it can give rise to claims for unfair dismissal if the employer fails to act reasonably in dismissing the employee in all the circumstances.

A redundancy dismissal is likely to be unfair unless the employer:

- Identifies an appropriate pool for selection
- Consults with individuals in the pool
- Applies objective selection criteria to those in the pool
- Considers suitable alternative employment where appropriate, subject to a trial period.

Alternatives to redundancy

An employer should consider whether it can avoid compulsory redundancies or reduce the number of compulsory redundancies at the outset by:

- Suspending or restricting recruitment
- Reducing or removing overtime opportunities
- Not renewing contracts of contractors
- Ceasing or reducing the use of agency workers.

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Redundancy

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Alternatives to redundancy continued

If these initial steps are unavailable or not sufficient, the employer should consider:

- Inviting potentially redundant employees to apply for suitable alternative vacancies
- Inviting employees to volunteer for redundancies
- Inviting employees to consider early retirement.

Redundancy payments

Employees with two years' service who are dismissed due to redundancy are entitled to a statutory redundancy payment. Redundancy payments are calculated according to a formula based on age, length of service, and pay.

The formula for a redundancy payment is:

- One and a half weeks' pay for each complete year of service in which the employee was aged 41 or over at the beginning of the year.
- One week's pay for each complete year of service in which the employee was aged 22-40 at the beginning of the year.
- Half a week's pay for each complete year of service in which the employee was under the age of 22 for any part of the year.

There is a cap on the amount of a week's pay and there is a maximum of 20 years' service that can be taken into account when calculating the statutory redundancy payment.

Employer's insolvency

When an employer refuses to make a redundancy payment or is insolvent, an employee can apply to the secretary of state for a redundancy payment out of the national insurance fund. Any dispute over a claim may be referred to an employment tribunal.

Contractual redundancy payments

In addition to statutory redundancy payments, an employee may also be entitled to an enhanced contractual redundancy payment if their contract of employment so provides.

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