

REDUNDANCY FACT SHEET

Redundancy is a very stressful time for both employees and employers. Emotions can frequently run high. Bevans Solicitors Employment Team understands the need for clear, concise and practical advice and have produced this guide to Redundancy, which answers some frequently asked questions.

What is a Redundancy?

There is a precise definition of redundancy encompassing 3 elements. If this is not met but there is still a dismissal, there may be a claim for unfair dismissal.

1. Job Redundancy – job disappears
2. Place of work redundancy – place of work disappears
3. Requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where the employee was employed by the employer, have ceased or diminished or are expected to cease or diminish.

What entitlement does an employee have when being made redundant?

Unless the employer has a separate redundancy scheme, where there is a genuine redundancy situation, an employee with at least 2 years continuous service is entitled to a redundancy payment from the employer. The amount of the payment depends upon the age, length of service and pay of the employee.

What must an employer do to effect a dismissal by reason of redundancy?

If a fair procedure is not followed, an employee with 1 years' continuous service may present a complaint for unfair dismissal. The maximum amount of compensation is £63,000. A COMPLAINT MUST BE PRESENTED TO THE EMPLOYMENT TRIBUNAL WITHIN 3 MONTHS FROM THE DATE OF DISMISSAL.

In order to follow a fair procedure employers should: -

1. Inform employees of the possible need for redundancies, giving as much advance warning as possible – it is important to stress that no final decision has been taken yet.
2. Consult with employees and the trade union before declaring redundancies as to
 - whether redundancies can be avoided or delayed
 - consideration of voluntary redundancy schemes
 - the pool from which redundancies are to be selected
 - the selection criteria to be used

- the timetable involved
 - entitlement to a redundancy payment if declared
 - offering help to get new jobs
3. Draw up objective selection criteria
 4. Apply the criteria fairly
 5. Consider whether alternative employment is available (This obligation continues to the date of termination of employment)
 6. Declare the redundancies – give proper notice of termination of employment.
 7. Provide a right of appeal against selection

Where there are to be 20 or more redundancies within 90 days at the same establishment there is a duty to consult trade union or other workers' representatives "in good time". Where there are to be 100 or more redundancies in 90 days, the consultation must begin at least 90 days' before the first dismissal. A failure to comply may result in a protective award of up to 90 days' pay for each employee affected.

If there are to be 20 or more redundancies within 90 days the employer must notify the DTI.

The Employer should ensure that the above is properly documented by way of meeting notes and letters to the employee.

I am an employer, what should I do next?

Redundancy is not a straightforward matter. A failure to follow a fair procedure could be costly for an employer. If you are unsure about your legal position, take specialist advice before acting.

I am being made redundant, what should my next step be?

If you are being made redundant it will no doubt be a very stressful time for you, however you need to make sure that your employer is treating you fairly.

Please contact Guy Hollebon in the Bevans Employment Team on 0117 923 7249 for further advice and assistance.

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This leaflet is for information only and does not replace the need for specific legal in each individual case.

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