

Guidance on Redundancy & Restructuring

[Home](#) > [Search](#) > [Redundancy](#) > [Guidance on Redundancy & Restructuring](#)

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Redundancy occurs when a position is no longer needed in a business; the position is redundant, not the person. This may occur due to economical, technical or organisational reasons and these reasons must be able to be justified.

When the decision has been made that a position must cease, your first obligation as an employer is to see whether the person(s) occupying the post(s) can be offered alternative post(s) to maintain their employment. All options must be considered, however unlikely. This may mean offering a job at lower salary or status - it is the decision of the employee to accept or reject.

If the person works with a number of others you should be considering who, out of the whole group, should be made redundant. For example, if there are six people in the welding department and you now only need five, you must have a set and rational criteria to select the person whose position is to be made redundant. It is important that you set these criteria out for all to understand how the selection is being made. If you have issued terms and conditions of employment then the criteria is often set out in this document.

Throughout this process several meetings will be held. Please note that Union representation is not permitted at the consultation meetings, unless your Company formally recognises a Trade Union. The employee's companion is restricted to a working colleague.

Where a Company does recognise a Union, the Union Representative must be involved at the earliest opportunity to liaise on behalf of the Union members.

Larger employers may wish to elect an Employee Representative from affected areas of operation to take part in initial consultation meetings eg a representative from the welding section, a representative from the paint shop or a representative from the office staff.

The Employee Representatives will meet with management to discuss the possibility of redundancy at the earliest stages. They will be required to meet with their colleagues to detail discussions which have taken place with the management team and, in return, present employees' views to the Company at subsequent meetings. In brief, act as formal "go-between".

Once early stage consultation is complete, selection will take place (see stage 2). Individual meetings with those employees selected for redundancy will be convened. The Employee Representative may act as employee companion in all formal meetings.

Following correct procedure is vital.

Stage 1

Consultation

You need to have a meeting to announce that redundancies are a possibility, and to explain why. It is good practice, although not compulsory, to ask for voluntary redundancies but you do not have to accept those who volunteer.

You then need to back up the information given at the meeting in a letter. This should also ask for volunteers to advise you in writing, and for anyone to put forward their comments or ideas for alternatives to redundancy in writing by a specific date. Two weeks is generally considered the minimum time period for this consultation exercise and in some cases longer may be needed.

Should you be in a position to offer alternative employment, the employees involved must be offered a "trial period" in this employment where they, and you, can make a decision on whether the employment is suitable. The length of this trial period will vary depending on the job and what is entailed, but as a good practice guide it should be a minimum of 4 weeks. During this time, every effort must be made to ensure the employee receives adequate training and/or supervision to ensure they have the best possible chance of succeeding. Should the employee decide at any time during the trial period that the job is unsuitable, they may take redundancy instead. Should you decide they are unsuitable for the job, bearing in mind you must have evidence why they are unsuitable, the redundancy can go ahead.

If redundancies are still the only option -

Move to stage 2

Selection

You need to use objective selection criteria (often stated in the terms and conditions issued). You may use one or several criteria as long as those criteria are applied to everyone. If there are a number of possible employees for redundancy use a criteria recording sheet to mark each employee, then you will select the person with the least marks to make redundant; this gives evidence of objectivity. It is advisable to have a "panel" eg four senior members of staff, who will be responsible for the scoring. Each person on the "panel" will independently score the relevant employees; the scores are then combined. The selection decision is based on this overall total score. Scoring in this way will demonstrate clearly that the company have been as fair and objective as possible when selecting the positions to be made redundant. When you have made your selection(s) -

Move to stage 3

Notification

Arrange a meeting with each person whose job will finish. These meetings need to be formal, ie follow the procedure for disciplinary regarding witnesses and minutes of the meeting as a formal record, taking into account that Union representation is only permitted where your Company formally recognises a Union. Explain the circumstances and why they have happened. Explain their redundancy payments and notice periods,

able to do within the company. Arrange another meeting after they have had time to think, and this meeting also needs to follow the formal rules. At this final meeting, when you will be confirming dismissal by way of redundancy, the employee is entitled to be accompanied by their Union Representative. Have a letter prepared for the employee after the meeting laying out what has already been said. We suggest you then send the person home for at least 48 hours, possibly longer, to give them time to think of any good reason why they should not be made redundant, or any good reason why they think you are making the wrong decision.

At the second meeting ask them again if they have any alternatives and ask for their thoughts on the matter. If they have any remotely viable ideas or alternatives, you may need a break in the meeting to consider them or you may need to postpone the meeting for further thought or a management meeting. If their ideas are not practicable, you need to discuss and explain why. If they have no suggestions you can continue with the redundancy.

If you do decide to make the person redundant they must be advised that they have the right to appeal and make sure they understand this. Have a witness to hear you say this, make sure it is minuted and put their right of appeal in the letter informing them of your decision. The appeal must be to someone other than the person arranging the redundancy, and the same formal rules apply if an appeal is sought.

Redundancy can be complex, especially if you are making several posts redundant. Please prepare your plan and ring the helpline to discuss it. We may be able to assist with drafting letters and will give guidance on your Company's individual circumstances.

This information is of a generic nature and is for guidance purposes only. Particular situations may require modification.