

A photograph of a modern office building at night, with many windows illuminated from within, showing office interiors with desks, chairs, and plants. The building has a glass facade.

Handling large scale redundancies

Guide to the redundancy consultation process where more than 20 members of staff are to be made redundant over a 90 day period.

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A photograph showing the interior of an office with several desks, computers, and office chairs. The lighting is warm and the space appears to be a typical modern office environment.

Employment law solicitors

An increasing number of employers are looking at ways of making cost savings. Unfortunately for many employers they will have no option other than to consider making employees redundant. Although many employers will have perfectly legitimate reasons for making redundancies, it is still important that employers follow a reasonable procedure if there are no alternatives to redundancy available.

The law

Employers who plan to make more than 20 employees redundant over a period of 90 days or less have a legal duty to consult with trade union representatives or elected employee representatives if there is no trade union.

Consultations must begin:

- At least 30 days before the first dismissal if between 20 and 99 employees are to be made redundant over a period of up to 90 days

- At least 90 days before the first dismissal if 100 or more employees are to be made redundant over a period of up to 90 days

Employers must consult with the representatives of any employees who may be affected by the proposed redundancies. The consultation should take into account ways in which dismissals could be avoided, how the number of employees facing dismissal could be reduced and justifying the reasons for dismissals. The consultation should be undertaken with a view to reaching an agreement with the representatives regarding these issues.

During the consultation process employers have a legal requirement to disclose information to the appropriate representatives to allow them to fully understand the process. The information which must be disclosed in writing includes: the reasons for the proposed redundancies, the amount and descriptions of the

Redundancy consultations: the law and best practice

employees who the dismissals are being proposed for, the total number of employees who fit this description, how employees will be chosen for dismissal, any procedures relating to how the dismissals will be handled, the period over which the dismissals will take place and how redundancy payments will be calculated. This information should be handed to or posted to the employee representatives or where there is a trade union, to their head office.

Best practice

It is best practice that trade unions and elected representatives are consulted with as early and as fully as is possible to allow discussions to take place as to whether redundancies are necessary or if alternative options are available. Alternative options may include: redeployment to an appropriate role elsewhere in the business, removal of the option of overtime (subject to contracts of employment), temporarily stopping recruitment into the business or freezing pay.

Considering suitable alternative roles is a key element of a fair redundancy process. Redundancy should be a last resort. If you unreasonably fail to look at suitable alternative positions then you may leave yourself open to tribunal claims. If a suitable alternative position is found for an employee elsewhere in the business and they choose to accept it it is good practice to consult with them on issues such as: the impact on their salary where the position is of a lower pay grade and arrangements in relation to travel and expenses where the position accepted is in a different location.

What if I don't follow the process correctly?

Employers are required by law to do all that they reasonably can to meet the requirements regarding redundancy consultation and it is important that you are transparent with the relevant parties throughout the procedure. If you fail to consult trade unions, the elected employee representatives or employees facing redundancy they may complain to an employment tribunal where you could also find yourself facing claims of unfair dismissal and so it is advisable when considering making redundancies in your business that you obtain legal advice on the correct procedures.

Stephensons' HR support and employment law team can be on hand to guide employers who are going through the process. Our experts can help you to deal with any issues as and when they arise and minimise the risk of any claims against you.

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