



Financial Squeeze

What every employer should do before making redundancies. The CBI has issued a warning that up to 10,000 jobs could be lost due to the ongoing credit crunch in the City. Many other small and medium sized enterprises outside the City will also be experiencing difficult trading conditions and considering reorganisation of their workforce and business.

Employer options are often limited during times of economic slow down and many will consider making compulsory redundancies. Failure to comply with the proper procedural steps can lead to costly and unnecessary unfair dismissal claims from disgruntled employees.

There are some basic requirements before dismissing an employee on the grounds of redundancy:-

At risk

Employees should be put "at risk" of redundancy. This needs to be put in writing to each employee setting out brief reasons why.

Consultation

Employers are obliged in nearly every redundancy situation to look for alternatives to redundancy. As such, the employer is obliged to consult with employees to look for alternative roles within the business. To comply with this obligation, employers are advised as a minimum to provide details of suitable alternative vacancies to all effected employees and to meet with employees in person to discuss any possible alternatives. The consultation period itself should be a reasonable period of time dependent upon the size and nature of the business and where there are employee representatives elected, then consultation takes place with the employee representative.

Selection Criteria

This often becomes a thorny issue between employers and employees and it is essential that the criteria and scoring used to select employees for redundancy is fair and objective and that it is objectively applied. Employees are entitled to know the selection criteria and scores. If Employee representatives are elected then employers will usually agree the criteria.

Employers should be particularly wary of using criteria which may give rise to claims of discrimination such as age or sex discrimination.

Alternative roles and time off

Employees who do secure alternative positions in the business can trial any new role for up to 28 days. If the post is not what the employee envisaged, then they can opt for redundancy at the end of the trial period. Employers should also give employees affected by redundancy reasonable time off to seek employment and to attend at interviews.

Dismissal

Employers will need to confirm the termination of employment in writing and give the employees the right of appeal against that decision. Remember to pay all monies owed to employees such as any payment in lieu of notice, accrued holiday pay, bonus or commission payments due.

Redundancy is one of the potentially fair reasons for ending employment. However a failure to comply with the procedures outlined above will entitle an employee to present a claim for unfair dismissal to an Employment Tribunal.

Compromise it?

Compromise Agreements are often used by employers as a way of offering enhanced redundancy packages in return for the security of knowing that all employment related claims are settled by the employee.

For advice and guidance on redundancy, reorganisation or Compromise Agreements, please contact **Judith Curran** on 020 8768 7022 or **Roy Carlo** on 020 8768 7031.

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