



Redundancies

The current economic climate is forcing many companies to consider cost cutting strategies and unfortunately this includes making redundancies.

If an employer does not handle a redundancy situation fairly, this could give rise to an unfair dismissal claim and/or a discrimination claim. This means following a procedure that goes beyond the statutory dismissal procedure; the main components being warning, consultation, fair selection and redeployment.

Consultation is an ongoing obligation and can be divided into the obligation to consult collectively and the obligation to consult employees on an individual basis.

An employer must inform and consult workplace representatives (this includes Unions) when they are proposing to dismiss as redundant 20 or more employees within a 90 day period. Where the employer plans to make up to 99 redundancies, consultation must begin at least 30 days before notice of dismissal is given to any employee. When 100 or more redundancies are planned, the period is at least 90 days. A failure to get this right can result in an award of up to 90 days' pay per employee. It is also a criminal offence if the employer fails to notify the Secretary of State of the projected redundancies.

The employer must consult about ways of: (i) avoiding the dismissals; (ii) reducing the number of employees to be dismissed, and (iii) mitigating the consequences of the dismissals.

Employers must consult with employees on a one-to-one basis whether or not the duty to consult collectively arises. The subject matter will depend upon the specific circumstances, but individual consultation should normally include: (i) the wider business reasons for the proposed redundancies; (ii) the proposed basis for selection and the proposed selection criteria; (iii) the availability of alternative positions, and (iv) the calculation of redundancy payments.

A common method of redundancy selection is to draw up a list of criteria and assign scores to each employee against each criterion. The selection criteria should be objective and not merely the personal opinion of the selector. This means that the assessment must be verifiable by reference to data whenever possible.

No-one likes to make people redundant. It may be the worst job that an employer ever has to do. It is therefore important that the employer is alert to their legal obligations towards their employees, to avoid expensive and time-consuming tribunal claims. Redundancies, if handled in the right manner, can be viewed positively and will be treated as "fair" by the Employment Tribunal.

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Paris Smith

The Region's Premier Solicitors

Number 1 London Road Southampton
Hampshire SO15 2AE

t: 023 8048 2482 f: 023 8063 1835

DX 38534 SOUTHAMPTON 3

e: info@parissmith.co.uk

www.parissmith.co.uk