











- How the selection process will be conducted;
- The timescales for the process;
- How redundancy payments are calculated;
- Any possible ways of avoiding redundancies or mitigating the impact;
- Any options for alternative work.

It is also good practice to provide the same information to individuals during individual consultation. Click [here](#) for a suggested presentation template.

### **How Long Does Consultation Last?**

Consultation must begin 'in good time' and take as long as is necessary. As a minimum the consultation process must be completed before any redundancy notices are issued.

Consultation should be conducted with a view to reaching agreement, but can end before agreement is reached.

Although there is no time limit to how long a consultation period may last there are minimum periods in place dependent upon the number of proposed redundancies:

- 20 - 99 redundancies, consultation must start at least 30 days before any dismissals take effect;
- 100 or more redundancies, consultation must start at least 90 days before any dismissals take effect;

### **Failure to Consult**

If the employer fails to consult under the requirements of TULR(C) A, then employees or elected representatives/Trades Union representatives may make a claim at the Employment Tribunal for a protective award. This can be on a number of grounds but typically include:

- Not beginning consultation early enough
- Not consulting properly
- Ending the consultation early

The protective award payment is up to 90 days' pay for each affected employee (The Employment tribunal will decide based upon the extent of the failure to consult in the circumstances).



Further, failure to consult employees - and their representatives if applicable - in a redundancy situation, will almost certainly render any subsequent redundancy dismissals unfair.

Complaints may also be made directly to Employment Tribunals by employees for unfair dismissal claims where the employee has more than one year's continuous service (discrimination claims and breaches of the Part-time Workers Regulations (2000) or Fixed-term Workers Regulations (2002) are exempt from the qualifying service criterion). At the time of writing the maximum award for compensation for unfair dismissal was £65,300. There is no maximum limit for discrimination awards.

## B. Notifications

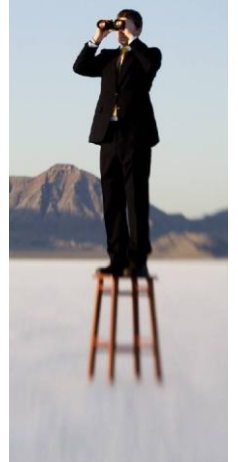
### **Do you need to tell the Regulators?**

If you plan to make 20 or more employees redundant in one place of work within a 90 day period you must notify the Insolvency Service using form HR1 (see link in 'Useful Links' section).

This can be done by writing to them at:

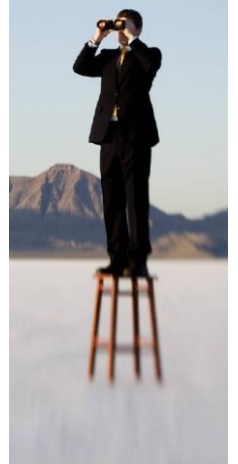
The Insolvency Service, Redundancy Payments Service  
PO Box 15425  
BIRMINGHAM  
B16 6HP

or by Email to [HR1@insolvency.gsi.gov.uk](mailto:HR1@insolvency.gsi.gov.uk) or by fax on 0121 455 0531.



## 6. An example process

1. Announce the potential redundancy situation through a formal briefing to the workforce – either through elected representatives and/or Trade Union officials where they are recognised (or where your policies dictate) and for an collective consultation
2. Following the collective announcement commence a series of individual meetings with all affected employees giving more detail of how this affects them and seeking their views on ways to mitigate the impact and number of redundancies. Also confirm the process for selecting employees and timescales
3. Continue to hold collective consultation meetings to explore all possible options and counter-proposals put forward by employee representatives. As guidance these meetings should be held on a weekly basis to allow for fast, but appropriate discussions to take place. These meetings should continue throughout the process in parallel with individual consultation
4. Use all relevant channels to communicate directly with all employees. Consider setting up specific 'intranet' pages for consultation, and publishing Q&A documents for the most commonly asked questions. Also consider, where appropriate, management briefing sessions to all employees
5. Provide written copies of all relevant documentation for employees
6. Conduct the selection process (see below)
7. Conduct a second round of individual consultation meetings to inform employees of the outcome of the selection process and provide the right of appeal



## 7. Selection for Redundancy

One of the most contentious aspects of redundancy is the selection of employees.

Having a robust and agreed (via consultation) selection process may not prevent employees from being disgruntled and unhappy but will make it easier to objectively justify selection decisions if challenged.

### A. Interview Selection

Perhaps the easiest method to justify to affected employees as it is perceived as being open and fair.

To conduct a fair interview selection process the following is recommended:

- At least two interviewers are present, one of whom should be the manager making the ultimate decision (the other may be from HR or a fellow manager);
- Interviews should be conducted against the criteria for the job being selected into, not the job(s) the candidates are leaving;
- A standard set of questions should be devised and all candidates interviewed against them, linked to the competencies for the role (this does not preclude asking different questions that may arise from answers given but ensures that all candidates are measured against the same criteria);
- Use a standardised marking system for each question and weight as necessary;
- Review the responses against the job description and identified competencies – do not compare the candidates against each other;
- When complete the two interviewers should score candidates individually and then discuss their scores to come to an agreement. If it is not possible to come to an agreement on any particular point the disparity should be noted with the selecting manager having the final decision;
- Another manager not connected with the redundancy selection process should review all of the scoring for consistency and fairness;

### B. Desk-Based Selection

Where it is not possible to conduct an interview process, for example a number of departments are being merged (so no single decision-maker) or



where employees are geographically spread out, then a desk-based selection process may be considered.

The first step is to construct a selection matrix with associated scoring key and weighting. Typically, selection is conducted against a number of criteria such as:

- Skills and competence;
- Standard of work performance;
- Adaptability to changing business needs;
- Disciplinary record;
- Attendance record.

Length of service is also used from time to time but it is essential that care is taken to ensure that age and sex discrimination does not take place as a result.

However, there are a number of criteria that are automatically unfair:

- trade union membership, non-membership or activity;
- legal industrial action lasting up to 12 weeks, or longer;
- certain employee representative reasons;
- actions taken on specified health and safety grounds;
- reasons associated with pregnancy, maternity, paternity, adoption and parental leave;
- reasons relating to regulations on part-time workers.

In coming to a decision the scoring manager should consider:

- Appraisal scores – are they relevant for the role being reviewed against?
- Has the employee been in a role long enough to make an objective assessment?
- Are all attendance records up to date? Generally speaking this criterion should not be used as a tie-breaker
- For disciplinary scoring, documented evidence must be available to support any negative scoring.
- Where an employee is on or has been on maternity leave, and this will affect the scoring the manager should seek advice on how to proceed.



As with the interview process another manager not connected with the redundancy selection process should review all of the scoring for consistency and fairness.

If it is found that the selection matrix produces inconclusive results, for example 3 employees are scored very closely together or have the same score, then an interview process can be conducted for those employees.

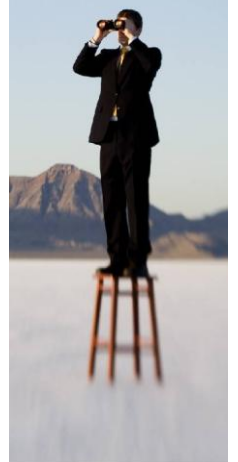
### C. Selection - Hints and tips

- For all individual meetings provide adequate written notification of the meeting where possible
- It is best practice to allow employees to be accompanied to such meetings
- Have a note-taker with you if you feel you need support
- Ensure you have copies of all the relevant briefing material to hand
- Explain the selection process in enough detail so that the employee understands it
- Remember to ask for any individual views on the process
- Confirm the outcome of all meetings in writing and provide copies of all relevant documents – employees are often in shock when they hear the news so don't remember everything you say
- Arrange follow up meetings as necessary

## 8. Other rights

Employees under notice of redundancy have the following rights:

- To be offered alternative employment wherever possible
- To have a trial period in the alternative employment without losing their right to a statutory redundancy pay
- Reasonable time off on full pay for job-hunting or to arrange training



## 9. Redundancy pay

Employees with at least two years (including those on fixed term contracts) continuous service have the right to a redundancy payment if he/she is dismissed due to redundancy. The amount is calculated according to the employee's age, length of continuous service and weekly pay (up to a maximum which is reviewed from time to time). You must provide a financial statement to the employee to show how you have calculated this payment at or before the time that it is paid.

To calculate the statutory entitlement, access the statutory redundancy calculator from the link below.

However, if through a contractual or negotiated agreement you have an improved payment schedule you must follow this and ensure that the employee understands the calculations.

## 10. Useful Links

[www.cipd.co.uk](http://www.cipd.co.uk)

[www.acas.org.uk](http://www.acas.org.uk)

<http://www.direct.gov.uk/en/Employment/RedundancyAndLeavingYourJob/index.htm>

<http://www.direct.gov.uk/redundancy.dsb>

[HR1 Form](#)

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