

## **Redundancy – When & What to Consult**

Many employers get confused with the changing requirements for consultation with employees when a redundancy situation arises. This fact sheet has been prepared to help employers understand the basics of redundancy consultation.

### **Collective Consultation**

There is a legal obligation to undertake collective consultation when the employer proposes to make 20 or more employees redundant at one establishment over a period of 90 days or less.

### **Individual Consultation**

There is no legal obligation to undertake collective consultation if less than 20 employees are being considered for redundancy, but there is a requirement to consult with all employees on an individual basis.

Where collective consultation is being undertaken, individual consultation should also take place.

### **Who Do You Consult With?**

For collective consultation the employer should consult with either recognised Trades Unions or properly elected employee representatives.

Individual consultation should take place with those employees potentially affected by the proposals, but employers should consider communicating to a wider audience to remain in control of the flow of information.

### **What to Consult About**

During collective consultation employee representatives/Trades Union representatives must be provided with the following in writing and in good time to provide a response. It is also good practice to provide the same information to individuals during individual consultation. Click [here](#) for a suggested presentation template.

- The reason for any proposed redundancy dismissals
- The number and different types of employees that are proposed to be made redundant
- Why individuals have been provisionally selected
- 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

# Redundancy – When & What to Consult

## How Long Does Consultation Last?

Consultation must begin 'in good time' and take as long as is necessary.

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 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).

## 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>

*Note: The material in this document does not give a full statement of the law. It is intended for guidance only and is not a substitute for professional advice. MyWorkSearch Ltd is not responsible for the results of any action taken as a result of reading this document.*