

HR Guidance

Redundancy

This business guide summarises the key issues that a business should be aware of when dealing with a redundancy situation.

Redundancy

Fairways HR guidance only provides an overview of the law in this area. For a complete understanding of how it may affect your particular circumstances in the workplace please contact one of our Consultants.

When can a redundancy situation arise?

Redundancy encompasses three different types of situation:

- Business closure.
- Workplace closure.
- Reduction of workforce.

Collective consultation

- If a business is making 20 or more employees redundant over a period of 90 days or less, the business must:
 - » inform and consult appropriate employee representatives.
 - » notify the Department for Business, Innovation and Skills (BIS).
- An employment tribunal can award up to 90 days' pay for each employee if the business has not consulted adequately. The business can also be fined for failing to notify BIS.
- The business should also ensure that it follows a fair procedure during the redundancy process (including consulting with employees properly) to minimise the possibility of claims for unfair dismissal.

Redundancy and unfair dismissal

- Redundancy is a potentially fair reason for dismissal. However, a redundancy dismissal is likely to be unfair unless the business:
 - » identifies an appropriate pool of employees for selection for redundancy.
 - » consults with the individuals in the redundancy selection pool.
 - » applies objective selection criteria to the employees in the redundancy selection pool.
 - » considers suitable alternative employment where appropriate (subject to a trial period).

Redundancy and unfair dismissal (continued)

- In certain circumstances, selecting an employee for redundancy will be automatically unfair. For example, selecting an employee:
 - » for a reason connected to pregnancy;
 - » because they refused to sign a working tie opt-out agreement; or
 - » for reasons related to trade union membership or activities.

Alternatives to redundancy

- At the start of a redundancy procedure, the business should consider whether it can avoid making compulsory redundancies or reduce the number of compulsory redundancies. For example, by:
 - » suspending or restricting recruitment;
 - » reducing or removing overtime opportunities;
 - » not renewing contractors' contracts; or
 - » ceasing or reducing the use of agency workers.
- If these steps are unavailable or insufficient, the business could also consider:
 - » inviting potentially redundant employees to apply for suitable alternative vacancies;
 - » inviting employees to volunteer for redundancy;
 - » inviting employees to consider early retirement; or
 - » temporarily laying off employees or reducing their hours.

Redundancy payments

- Employees with at least two years continuous employment with the business at the point they are made redundant will be entitled to a statutory redundancy payment.
- Some employees may also be entitled to an enhanced contractual redundancy payment, if their contract of employment or other documents provide for it.