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Redundancy: HR guide

Description

Introduction

In this guide I explain the definition of **redundancy**, statutory redundancy payments and unfair dismissal.

Definition of redundancy

An employee is dismissed for **redundancy** when the dismissal is due to the closure of the business, the closure of the workplace where the employee was employed or reduced requirements of the business for employees to do work of a particular kind.

Statutory redundancy payments

Employees who have at least two yearsâ?? continuous service and are made redundant are usually entitled to a statutory redundancy payment. The payment is calculated by reference to length of service, age and earnings (up to a maximum of Â£751 per week) with an overall cap of Â£22,530. Here is a link for calculating these payments.



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An employee who unreasonably refuses an offer of suitable alternative employment with their employer or an associated employer will lose their entitlement to a redundancy payment.

This involves a two-stage test.

The first question is: is the job suitable? Relevant matters could include whether the employeeâ??s skills and experience meet the requirements of the new role and the terms of the new role. Terms to consider would be status, seniority, hours, salary and place of work.

The second question is: was it reasonable to refuse the offer? The new role could be suitable, but it might still be reasonable for the employee to refuse. Such factors could include personal circumstances.

Unfair dismissal and redundancy

Generally, currently, employees who have at least two yearsâ?? continuous service have the right not to be unfairly dismissed. The new legislation, however, will reduce the qualifying period from two years to six months. The six month qualifying period will apply for employees with employment end dates on or after 1 January 2027.

The maximum compensation award for unfair dismissal is normally the lower of 52 weeksâ?? pay or Â£123,543. The new legislation, however, will abolish the 52 week and financial cap. The removal of the cap will take effect from 1 January 2027.

Redundancy is a fair reason to dismiss. However, in order to dismiss fairly the employer must follow a fair process, and:

â?¢Consult with the individual before a decision is reached. Consultation periods usually could last around two weeks. The appropriate length of the consultation period will though depend on the circumstances. During the consultation period the employer should listen to the views of the employee and consider any alternative options instead of redundancy.

â?¢Search for suitable alternative roles within the organisation and, possibly, other group companies, as well. There is no obligation on the employer to create new roles, but suitable existing roles need to be considered.

â?¢In some cases, carry out a fair selection process. If an individual has a unique role going through a selection process might not be necessary. But when employees are doing the same or similar roles and there is a headcount reduction, it would normally be required. An appropriate pool should then be identified, and objective criteria used. Common criteria could include skills, performance and disciplinary records.

â?¢Depending on the number of proposed redundancies consult with the workforce, collectively.

â?¢There may be other things to consider, too.

Here is a link to the Advisory, Conciliation and Arbitration Serviceâ??s (Acas) guidance on making redundancies

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Collective consultation

Where there is a proposal to dismiss as redundant 20 or more employees from one establishment within a 90-day period the employer must carry out collective consultation.

Here **redundancy** has a wider meaning than for statutory redundancy/unfair dismissal purposes. It means a dismissal thatâ??s not related to the individual concerned. It could include where an employer changes employeesâ?? terms/conditions of employment through termination and re-engagement.

There is no time limit on how long collective consultation should last. However, where 20 to 99 redundancies are proposed there must be 30 days minimum consultation period before dismissal and where 100 or more redundancies are proposed there must be 45 days minimum consultation period before dismissal.



When the duty arises, the employer has to engage with a trade union or, in cases where no trade union is recognised, elected employee representatives. There are requirements on the information to be provided, how the consultation must be undertaken and timescales. The Department for Business, Energy and Industrial Strategy (BEIS) must also be notified. Here is a link to the notification form: HR1.

Employment tribunals may make protective awards when employers breach the rules on providing information, consultation and electing representatives. The maximum award is 180 daysâ?? gross pay for each dismissed employee.

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This guide is intended for guidance only and should not be relied upon for specific advice.

If you need advice on **redundancy** or have queries relating to other employment law issues, please do not hesitate to contact me on 020 3797 1264.

Do check mattgingell.com regularly for updated information.

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