

Redundancy – Are We Really Here Again?

November 2010



Introduction

Following the Chancellor's recent spending review in Parliament, it has become very clear that we are set for significant redundancies in the public sector and many would argue, as a knock on effect, the private sector as well. In the light of this, a fresh look at what constitutes a fair redundancy process is the focus of this Factsheet.

What is redundancy?

A redundancy situation is triggered when there is an expectation on the part of the employer that the work of a particular kind has ceased or diminished or is expected to cease or diminish. This may happen in a re-structure of business activities, in response to a decision to stop performing a particular function or indeed, when a business or part of a business closes.

Care must be taken to identify situations where TUPE applies however, rather than redundancies. In an instance where a business is sold, part of a business moves or a contract is awarded to another organisation, the people associated with that contract may be transferred to that employer, rather than be made redundant.

Identifying TUPE

Under the Transfer of Undertakings (Protection of Employment) Regulations, commonly referred to as TUPE, employees have the right to transfer with the work if the majority of their working time was associated with that work or business operation.

This can effectively save an employer from the redundancy costs, although there are serious liabilities if the situation is not identified and the correct TUPE consultation procedure not followed.

Contact us

HR Insight – 01708 758958
20 Eastern Rd, Romford, Essex RM1 3PJ

Offices in Romford, London (City & West End), St Albans, Hayes and Redhill.

Obligation to consult

Redundancy situations trigger a legal obligation to inform employees about the situation and to consult with the affected employees about their jobs being at risk.

The consultation procedures that must be followed are different depending on the number of positions at risk of redundancy. The procedural steps set out below address situations where 19 or less employee positions are at risk.

Step by step procedure

1. Document the business reasons for the change and the impact this will have on positions employees hold
2. Identify whether the positions are stand alone or whether employees doing the same or similar work need to be placed in a selection pool
3. Agree the selection criteria that employees will be measured against to fairly identify the individuals at risk
4. Consider alternatives to redundancy and collate information of other opportunities that may be available to the affected individuals
5. Hold one-to-one 'at risk' meetings with the individuals, informing them of the situation, advising on obligations of both during consultation and providing an estimated payment schedule in the event that the redundancy has to be confirmed
6. Be available during consultation (at least 2 weeks) to consider any alternatives that are proposed as an alternative to redundancy
7. At the end of the consultation period, invite the individual (who has a right to be accompanied) to a meeting and if no alternatives have been identified issue the formal notice of redundancy
8. Confirm the redundancy and advise the individual of their right of appeal.

Heather Matheson
HMatheson@hrinsight.co.uk

Legal Department
legal@hrinsight.co.uk

Collective consultation

In the event that 20 or more employees are likely to be affected, a collective consultation process lasting 30 or 90 days needs to be entered into. This will involve trade union representatives and/or elected employee representatives, as well as one-to-one meetings with the individuals identified at being at risk of redundancy.

Formal notification on an HR1 Form will also need to be made to the Department for Business Innovation and Skills (BIS).

The emotional impact

It is difficult to predict the response of an employee to an unexpected redundancy announcement.

Early consideration of any support that you are able to offer during the notice period (which you may or may not require them to work) can help achieve a positive final meeting and reinforce your role as a good employer. This may include:

- Can you help with information on the local job market?
- What is the reference that they will receive from you likely to say?
- Can you help them draft a CV or complete applications for new jobs?
- How much time off (that you give them for interviews) will be paid?
- Where can they get more support?

Can we help?

Our experience at HR Insight of redundancy programmes is wide and varied – and we are here to help.

If you have any questions about the content of this Factsheet please do contact us on **01708 758958** or visit us at www.hrinsight.co.uk

Webinar on redundancies

We are running a Webinar at 11am this Friday, 5 November on redundancies. To register and have your questions answered, email Joanna Cowie at:

icowie@hrinsight.co.uk