

Managing Small Scale Redundancies



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Introduction

Any redundancy situation will involve people, and more often than not this can be a very daunting and stressful experience for most people.

Handling redundancies needs to be managed carefully and sensitively whilst at the same time ensuring the legal requirements of consultation and dismissal are adhered to.

Businesses will continually grow or close, re organise and on some occasions relocate. These developments will inevitably result in changes to job roles, role location, status and in some cases the discontinuation of posts. Managing change effectively will assist affected staff to feel that whilst this is a situation they would have probably wanted to avoid, that it is being carried out fairly and consistently and within the requirements of appropriate employment legislation.

This guide provides a step by step approach to managing small scale redundancy situations and clarifies the process to be followed, what the law requires and what information needs to be considered and provided as a part of this process.

Collective redundancies

Strict consultation rules apply when an establishment wishes to make collective redundancies. A collective redundancy situation applies when 20 or more employees will be made redundant within a 90 day period. The rules on consultation are not as stringent for redundancies of 20 employees or less, however there is always the requirement to meaningfully consult.

What is redundancy?

A redundancy situation usually occurs when an employer needs to reduce their workforce or close down completely. Redundancies will not apply where an employee's performance is poor. This should be dealt with under the Disciplinary or Capability Policy. Redundancy can be voluntary or compulsory.

Step 1 – Be prepared

It is advisable to start talking to your staff about circumstances that may lead to redundancies as soon as is appropriately possible. However, prior to that you may want to seek advice from an expert about the process and legal aspects related to redundancy actions, seek training on managing redundancies fairly and legally, talk to your managers so that they are prepared for what role they may have within the process and what questions they may be asked of by their staff and ensure that you are also getting appropriate support throughout this process.

As a business owner or manager and unless you have brought in a HR Specialist or have an internal HR Department you will probably find that you will have to manage this process on your own. You need to ensure that you are appropriately trained and/or knowledgeable about all the different aspects to managing redundancies e.g consultation rules, conducting formal consultation and redundancy meetings with staff who may be losing their jobs, giving formal notice of redundancy and working out redundancy estimates.

Step 2 – Meaningful Individual Consultation

Whilst the strict rules of collective consultation do not apply to employees of less than 20 being made redundant in any 90 day period, employers are legally required to meaningfully consult with individuals, and that includes all staff affected not just those being placed at risk of redundancy.

There is no fixed period of consultation for small scale redundancies but in order for it to be meaningful enough information on the proposed change needs to be provided to affected employees and it is highly likely there will be a number of consultation meetings.

It is advisable that the proposal is sent to the individual prior to the consultation meeting or that you have two consultation meetings, one to introduce the proposal, allowing the staff member to ask questions, they should then be allowed to take this information away with them to help them identify alternative proposals, and then a further consultation meeting to allow discussion on any alternative proposals presented.

You are not legally required to consult with a group of employees with less than 20 staff being proposed for redundancy but you can do this if you wish. If you do you should always allow for an individual consultation meeting if the individual wants this.

Step 3 – How to choose staff to be made redundant

For individual cases of redundancy the individual staff member to be made redundant may be obvious. For example, if there is no longer a requirement to have a Finance Director due to organisational change or simply due to financial reasons and there is only one Finance Director. In other cases there may already be a clear criteria and pool of staff that you need to make redundant e.g if a farm shop closes its Bakery then there will be no longer a need for all of the Bakers.

However, more often is the case that an employer wishes to reduce staff numbers rather than remove a certain role or department completely. When this is the case fair selection criteria will need to be established and applied and a pool of staff considered for redundancy. It is recommended that you consult with your employees on what selection criteria should be used.

Step 4 – Suitable Alternative Employment

If an individual has been selected for redundancy you should seek to find a suitable alternative post within the Company/Organisation if possible. The positions to be offered need to be suitable and reasonable taking into consideration:

- Hours/working pattern
- Workplace location
- Pay and contractual terms
- Job content and status

A suitable role has to be offered during the consultation process or failing that the notice period and has to be an available role i.e you do not need to make up a job to retain an individual.

Once a job role has been offered and accepted as suitable by the employee they usually have a statutory trial period of 4 weeks in the role. This trial period is for the employee and the employer to practically assess the suitability of the role.

If an employee unreasonably refuses an alternative post/a trial in an alternative role and rejects this when it is considered to be a suitable alternative role then the individual will be dismissed and may forfeit their right to redundancy pay. However, it is advisable to take advice when considering this option as this could give warrant to an unfair dismissal claim.

Step 5 – Right to paid time off to look for work/attend training

Employees who are within their redundancy notice period and who have had at least 2 years continuous employment by the time their notice will end have the right to a reasonable amount of time off during working hours to look for work or make arrangements for training. Only some of this time will be paid, e.g:

- Visiting job centres and recruitment agencies
- Attending job interviews
- Getting help writing/updating CVs and/or job applications
- Events linked to colleges, universities etc

Step 6 – Giving redundancy notice and pay

When an individual has been selected for redundancy and no suitable alternative post is available you will be required to meet with them formally giving them notice that you will be dismissing them due to redundancy.

The individual should be written to inviting them to the formal meeting whilst also offering them the right to representation by allowing them to bring with them to the meeting a workplace colleague or a Union Representative.

The notice period will start on the first day that the notice is given e.g the day of the formal meeting. The notice period would usually be the statutory notice period an employee is entitled to due to length of service – one week for each year of employment, up to a maximum of 12 weeks if the employee has been continuously employed for 2 years or more or the contractual notice, which ever is the greater.

Employees are only entitled to redundancy pay if they have been employed for 2 years or more. If an employer has no contractually enhanced redundancy pay arrangements then an employee would be entitled to statutory redundancy pay entitlement of:

- 0.5 weeks pay for each full year if they are under the age of 22
- 1 weeks pay for each full year if they are 22 years of age or older but under the age of 41
- 1.5 weeks pay for each full year if they are 41 years of age or older

Employees can only count a maximum of 20 years service and the weekly pay is subject to an upper limit available on the Government website

<https://www.gov.uk/staff-redundant/redundancy-pay>

Step 7 – Allowing the right to appeal

There is no statutory requirement for an employer to have an appeals procedure in place for dismissal due to redundancy as the ACAS Code of Practice on Discipline and Grievance does not apply. However, it is good practice to offer the right to appeal and the employee does have the right to appeal even where you have not made them aware of this.

Redundancy Pack

At HR Elite we have a full redundancy pack available containing all the necessary guides, template letters, selection matrix and other documentation. Contact us at info@hrelite.co.uk for further information and fees.