

Redundancy Guidelines

Ben's Centre for Vulnerable People (Sheffield)
Charity Number: 1087606.

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Introduction

These guidelines set out our approach to dealing with potential redundancies amongst our employees. They do not form part of your contract of employment, and we reserve the right to amend or withdraw it at any time.

Although it is our aim to avoid redundancies wherever possible, there may from time to time be a requirement for a reduction in the overall number of staff employed, or organisational changes that result in some roles being made redundant. Where this is necessary, we will ensure that:

- The total number of redundancies made is kept to a minimum.
- Employees and, where appropriate, their representatives are fully consulted on any proposals and their implementation.
- Selection for redundancy is based on clear criteria that will be objectively and fairly applied.
- Every effort is made to redeploy or find alternative work for employees in roles which are selected for redundancy, and;
- Support and advice are provided to employees in roles selected for redundancy to help them find suitable work when their employment has ended.

It is accepted by us that redundancy should be used as a last resort and only after all alternatives have been considered and assessed. We recognise that being involved in a redundancy situation is one of the most distressing events an employee can experience, and we will therefore ensure that all discussions and communications are handled with sensitivity whilst ensuring fair and consistent treatment is afforded to everybody. As legislation is complex, we will do everything reasonable to understand our obligations whilst appreciating and supporting the rights of all employees.

Is the role redundant?

Under Section 139 of the Employment Rights Act 1996 an employee can reasonably be dismissed by reason of redundancy if wholly or mainly attributable to:

- The fact the employer has ceased or intends to cease to carry on the business for the purposes for which the employee was employed, or;
- The fact the requirements of the business for employees to carry out work of a particular kind have ceased or diminished or is expected to.

This is particularly important as we need to understand if what we are considering is a genuine redundancy, or if it is something else. Section 139 of the Employment Rights Act 1996 applies to both public and private sector and covers a number of circumstances that may give rise to a genuine and fair redundancy situation, including:

- Closure of the business as a whole.
- Closure of the business at the place where the employee is employed.
- Diminishing need for a number of staff to do work of a particular kind.
- Less work but same number of employees.
- Re-organisations, and;
- Bumping.

Is the redundancy fair?

Whilst redundancy is a potentially fair reason for dismissal it does not mean that any redundancy that is made will be viewed as fair by either the employee or an employment tribunal.

The fairness of the decision will be determined by whether or not it meets the overriding test of fairness as set out in Section 98(4) of the Employment Rights Act 1996.

- Before making any decision, we commit to be able to demonstrate:
- Employees were treated fairly and respectfully at all times;
- Decisions taken and behaviours around these were reasonable;
- The necessary policy and procedures were followed;
- Appropriate timescales were adhered to and communicated clearly to employees, and;
- If required and as necessary, a fair and objective selection process was followed.

If the reason, or principal reason, an employee is selected for redundancy is one of the prohibited grounds as set out in Section 105 of the Employment Rights Act 1996, the Trade Union and Labour Relations (Consolidation) Act 1992, or other employment legislation, we accept the dismissal will be automatically unfair. These include:

- Pregnancy, childbirth, or stat maternity, paternity, adoption, parental or dependent care leave;
- A reason of Health and Safety;
- For making a protected disclosure (Whistleblowing);
- For asserting a specified statutory right (of which there are many), and;
- For performing functions as a representative on a TUPE transfer or collective redundancy.

In these instances, it is likely we will have no defence to a claim for unfair dismissal and it is irrelevant whether reasonable actions or a fair procedure was followed.

Communication

Redundancy situations are challenging, they affect team dynamics. and can often be emotionally charged. We therefore agree to implement an appropriate and consistent line of communication with all employees, including, at intervals, with those that are not affected by the potential redundancy situation.

The line manager of the employee should where possible be the main point of contact throughout the process. In the absence of the line manager an appropriate person should be named.

The process

Every redundancy situation is different. This means that there is the potential for a range of outcomes. Outcomes are agreed by applying a robust process incorporating different stages. Stages include preparation, approval, consultation, evaluation, reporting, feedback, and outcome.

What is a period of consultation?

A redundancy consultation period is the time allocated for conversations and meetings before any actions are formally agreed. Consultation includes discussing the business reasons and looking for ways to avoid redundancies.

Whilst we have a duty to undertake a period of consultation there is no obligation to adopt all or any of the proposals put forward by either the employee or their representatives.

Consultation does not have to end in agreement, but it must be carried out with a view to reaching it, including discussing ways to avoid or reduce the redundancy. There is no timescale or procedure a period of individual consultation should follow, so long as it:

- Is meaningful;
- It starts at a sufficiently early stage in the process, and;
- It is completed before any notices or decisions are issued.

We envisage that a fair and meaningful period of consultation will typically involve at least two meetings with the employee, possibly in addition to other group meetings, or relevant discussions however, this can vary depending on individual circumstances. It is though important that all meetings during the process are documented and minuted, which we will do as a standard.

There are different types of consultation:

Option A - where there are no employee representatives

Consultations will be carried out with individual employees as appropriate. Where more than 20 redundancies are proposed arrangements will be made for the election of employee representatives. Individual employees will still be consulted in respect of their own particular circumstances.

Option B - where employees are covered by trade union recognition

Appropriate consultations will be carried out with the recognised union. Individual employees will still be consulted in respect of their own particular circumstances.

Option C - where there are existing employee representatives

Consultations will be carried out with individual employees as appropriate. Where more than 20 redundancies are proposed, consultations will take place with us over the proposals and general process to be followed. Individual employees will still be consulted in respect of their own particular circumstances.

Voluntary redundancy

In order to minimise the need for compulsory redundancies any requests from employees for voluntary redundancies will be considered. Whether or not these will be accepted, or whether additional payments will be offered in relation to this, will be a matter for consultation and will depend on the circumstances.

We reserve the right to decline requests for voluntary redundancy.

Redundancy selection

When selecting employees for redundancy, consideration should be given to developing and applying a range of selection criteria that is robust, fair, and consistent. Such criteria will depend on existing circumstances and in particular our needs at the time.

We will ensure that, as far as possible, any criteria applied in a group scenario is objective and measurable. Where possible we will use quantifiable factors and ensure that more than one person moderates the scores to eliminate bias or suggestions of discriminatory behaviours.

Individual employees who are provisionally selected for redundancy following the application of criteria will be informed of the fact and invited to a meeting, at which they will be given opportunity to discuss the criteria and make suggestions for an alternative course of action.

Alternative work

We will make every effort to redeploy to suitable alternative work any employee who is selected for redundancy. Such employees will be informed of all the available vacancies within the business at the time of their selection and will be given an opportunity to discuss with their line manager which vacancies are likely to be suitable for them. While priority will be given wherever possible to employees under threat of redundancy, the employer reserves the right to select the best available candidate in relation to any given vacancy.

Employees have a separate legal entitlement to be offered any suitable alternative work that is available if they are made redundant while on maternity or shared parental leave.

Time off work

An employee under notice of redundancy will be entitled to a reasonable amount of paid time off to look for alternative work, attend interviews, etc. Employees wishing to exercise this right should make appropriate arrangements so far in advance as possible by speaking with their line manager rather than creating any unintentional situation or scenario of unauthorised absence.

Termination of employment

Depending on the circumstances we may waive our right to insist that employees selected for redundancy work their period of notice and we may instead give a payment in lieu of notice (PILON).

Should a PILON be considered we commit to take the necessary time to explain the principles of such a process to individual employees before any such arrangement is processed.

Employees with two or more years' service may be entitled to a statutory redundancy payment. The amount of this payment will be confirmed when the employee is selected for redundancy and the sum will be paid along with the employee's final salary payment or PILON.

Overview

Ensuring a robust redundancy process is followed is critical. As too is remembering the human element that is involved. There is no substitute for reasonable and fair behaviour, and we commit to undertaking a meaningful and fair process with all employees.

Review

This policy may be reviewed at any time at the request of any member of staff, but it will be automatically reviewed 2-years after initial approval and thereafter on a triennial basis unless organisational changes, legislations, guidance, or non-compliance prompt an earlier review.

Definitions

Ben's Centre ("we", "us", "our")

The Employee ("you")