



A guide to redundancy

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Redundancy process checklist

PLEASE NOTE: This article is written for information only and does not constitute legal advice. Every redundancy situation will be different and specific advice should be sought.

This article has been written in the shadow of the COVID-19 pandemic as many employers may need to make employees redundant to ensure survival. This article however relates to redundancy more generally whether or not because of the pandemic.

This article has been written on the basis that less than 20 redundancies will be made. Where 20 or more redundancies are considered employers will have to ensure that collective consultation takes place.

Want to know more?

To find out more about your redundancy options, contact Rob Zacal at robert.zacal@GAsolicitors.com or call him on **01752 513549**

Step 1 – Are redundancies necessary?

Employers should carefully consider whether there is a genuine redundancy situation before speaking to any of the employees.

The legal definition of a genuine redundancy situation is:

- *Business closure (closure of the business altogether)*
- *Workplace closure (closure of one of several sites, or relocation to a new site)*
- *Diminished requirements of the business for employees to do work of a particular kind*

Employers should consider preparing a business case or written analysis of why redundancies are necessary. By doing so employers can critically analyse their business and operations and test their assumptions and views. Employers can (and probably should) also gather the necessary evidence and data to support their views.

A business case should consider questions such as:

- *Why are redundancies necessary?*
- *How many redundancies?*
- *Which roles?*
- *Is there evidence and (financial) data to support the need for redundancies?*
- *What will the structure of the business be after the redundancies?*
- *Could full or flexible furlough be used to avoid redundancies?*
- *If the duties of those to be made redundant are to be absorbed by others – which duties and who will absorb them?*

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Step 2 – Who is at risk?

Employers should put together a pool of employees at risk of redundancy.

Employers should consider which employees are at risk and why they are at risk. One common reason redundancy dismissals are found to be unfair by employment tribunals is that the selection pools were too narrow and not adequately considered.

Employers should consider whether employees in roles that remain required should be included in the selection pool. It may be that an employee currently in a role at risk could work in a role not at risk and therefore the incumbent employee should be considered as part of the selection pool.

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Step 3 – Selection Criteria

Once an employer has decided the selection pool they need to be able to decide who should be made redundant. This can be achieved by a scoring selection criteria.

The selection criteria needs to be fair, objective and with scores being based on evidence.

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Step 4 – Warning

Employers should warn those employees at risk of redundancy both verbally (in a meeting, telephone call or video call) and in writing.

The warning letter should contain information on:

- *Why redundancies are deemed necessary (perhaps the employer's business case could be shared)*
- *Why the employee is at risk*
- *The selection pool*
- *The scoring criteria and how it will be scored*

The employee should be invited to an individual consultation meeting and they should be given the opportunity to be accompanied by a fellow colleague or trade union representative.

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Step 5 – Scoring

Prior to the consultation meeting the employer should score each employee. It is advisable for employers to have evidence and data to support the scores (for example disciplinary records, targets and KPIs).

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Step 6 – Consultation meeting

This is a crucial step in ensuring that the redundancy process is fair and reasonable. This is the employee's opportunity to ask questions, raise concerns and challenge the proposed redundancies.

It should be viewed as two-way dialogue where employees are encouraged to put forward their suggestions and raise their concerns.

During the consultation meeting the following topics should be covered:

- *The reason why the employee is at risk*
- *The employee's individual score under the selection criteria*
- *The evidence and data upon which the score is based*
- *Whether the employee could be considered for any vacancies*

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Step 7 – Invitation to further or final consultation meeting

Following the consultation meeting and consideration of everything discussed, the employer should invite the employee to a further or final consultation meeting.

The written invitation should:

- *Summarise what was discussed during the consultation meeting (selection criteria score, vacancies and responses to any questions or suggestions raised)*
- *Invite the employee to a further consultation meeting*
- *If it is intended that it be a final consultation meeting the employee should be warned that one possible outcome is that the employee may be made redundant*
- *The employee should again be given the right to be accompanied by a fellow colleague or trade union representative*

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Step 8 – Final consultation meeting

This meeting should summarise the consultation meeting and discuss the outcome of the redundancy process, including confirmation of redundancies.

Employers should discuss notice, redundancy pay and accrued annual leave with those being made redundant. This should also be confirmed in writing.

Employers should consider whether to allow redundant employees to appeal their redundancy.

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Overview

This article is intended to be a summary of the key steps to be taken when considering making redundancies. Every redundancy situation will be different and so there is no one size fits all approach.

At GA Solicitors we have an employment department which can provide advice to employers on conducting redundancy procedure. Any questions or queries should be directed to Rob Zacal by telephone (**01752 513549**) or by email (**robert.zacal@GAsolicitors.com**).



Robert Zacal
Employment Solicitor

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