

Introduction

As a line manager, handling the redundancy process can be legally complex and emotionally difficult. This guidance document aims to explain the key principles of managing the process as professionally as possible, with useful tips and guidance on what to say and what not to. First, we look at legal issues involved.

The legal background

Redundancy can arise where there is either a cessation of work or a diminished need for the work.

Redundancy is one of the five reasons for dismissal and brings with it the normal employment rights held by an employee after two years' continuous service. If an employee believes they have been dismissed due to a "protected characteristic" such as sex, disability, age etc, they can bring a claim with less than two years' service.

The financial impact of getting it wrong can be significant for the employer both in terms of cost and management time. So, handling it right will pay dividends, both for the employer and the employee. Job insecurity creates a real emotional impact which, for some, will feel like rejection.

The two key principles in any redundancy situation are:

- Meaningful consultation
- Objective and fair selection

Meaningful Consultation

Never underestimate the importance of engaging in meaningful consultation. Consultation is never meaningful if the decision has already been made to effect the change. That's why it is commonplace to inform employees that they are "at risk of" redundancy. These are powerful words and managers should reflect them in their approach with genuine intent. Giving mixed messages to an employee will only cause issues further down the road. Engaging in meaningful discussion, considering alternatives proposed by the employee such as pay cuts or reduced hours are just a few of the options that employers should consider.

So it will never be just one meeting, but a series of meetings over several weeks with a well-documented meeting plan for each stage. A consistent approach is essential, covering all the procedural issues properly, backed up by an outcome letter at each stage.

Consultation is not always about discussion with the employee. Where more than 20 employees at an establishment are at risk of redundancy, the organisation should consult collectively with elected employee representatives alongside the "individual consultation" process with the employee.

Objective and Fair Selection

Being able to clearly articulate why an individual's position is at risk of redundancy and what will happen to the work they do is key, and will greatly assist employee's coming to terms with the situation and both parties being able to move on.

Sometimes, where a redundancy situation involves more than one person (such as for example, two Marketing Executive positions being merged into one role), employers will need to address how selection is done. Whilst years ago, "last in first out" (LIFO) was the common approach, with little room for challenge of a start date, these days "LIFO" is very much avoided due to its potential for age discrimination (the risk being that younger people are more likely to have less service than older employees). So, employers are advised to utilise a proven "criteria-based selection scheme" which is both objective and fair.

Furthermore, where two or more managers are rating employees across one pool, it is vitally important that a consistency check stage is built into the form completion process, and that ratings are tested/checked in advance.

Inviting the employee to the first meeting

So, you've got your rationale together, your assessment forms completed (if applicable) and you are ready to engage with employees. How do you invite the employee to the meeting?

There is no single right way. Some organisations prefer to give employees written notice of the first meeting or to speak with the employee about the meeting arrangements. Whilst this is beneficial in enabling the employee to invite a companion to be present, it also brings the risk of the employee worrying about their future and wishing to engage in the conversation prematurely. Short lead times of a day or so are therefore best for this approach.

It's important to remember that the first meeting is simply an introductory meeting, primarily to share information. Its not like a disciplinary hearing where the employee needs to prepare. This is why some employers prefer to invite the employee unaware of the meeting's nature, but to make it clear from the start that the session can be rearranged if the employee wishes to have a companion present. This minimises the uncertainty for the employee prior to learning all the facts and options.

Transparency of Process

These meetings are unpleasant for both the employee and the line manager and it's easy to forget important procedural points. It's helpful for manager's to follow a well-written meeting guide to ensure nothing is missed. Having a professional HR person alongside the manager will also pay dividends.

Keep in mind too that this can be a very emotional experience for the employee, particularly where they have worked for the employer for a long time. For some, it can be a grieving process that elicits many emotions. Getting the right balance of empathy and professionalism is key and that includes sharing appropriate information about how selection has been done and exploring alternatives to redundancy.

Outcome letters recording the key points discussed are essential, to demonstrate that a fair procedure has been followed and help the employee recall what was said to them at the meeting.

Follow up consultation meetings

Consultation is key. Gone are the days when employees are called in, made redundant and leave site immediately.

Today, we advise holding two further meetings after the initial individual consultation meeting. The second meeting gives the employee the opportunity to feed back and the manager to listen to their points, before arriving at a decision at the third meeting.

It is important to get the balance right between not rushing consultation with the process taking too long. Again, each meeting outcome should be properly recorded in the form of an outcome letter.

The final meeting

Only at this stage should a decision be taken. Usually this meeting involves responding to any outstanding points made by the employee and issuing formal notice. Like any dismissal, this involves stating that employees have the right of appeal, plus confirmation of any statutory redundancy and notice pay entitlements.

Conclusion

Being seen by other employees to handle redundancy situations the right way is also very important, so do ensure you communicate effectively to the wider employee group. Some organisations with large scale redundancy programmes provide job search support to employees, sometimes referred to as outplacement.

Overall, organisations should follow a proven process, while recognising that it's not just a process, it's a person.