Redundancy can be a very challenging and upsetting situation for affected employees and the wider workforce. Announcing redundancies affects staff morale, motivation and productivity. Employers need to handle the redundancy situation as sensitively as possible to reduce the negative impact.

Every employer should consider having a formal redundancy procedure. In many organisations a formal agreement may exist between management and trade union or employee representatives.

Exact procedures will vary according to the timescale and size of the redundancy programme, but organisations should follow these stages as a minimum:

* planning
* identifying the pool for selection
* seeking volunteers
* consulting employees
* selection for redundancy
* appeals and dismissals
* suitable alternative employment
* redundancy payment
* counselling and support.

Planning

Organisations should always attempt to avoid redundancies and consider alternative approaches, such as:

* Natural wastage.
* Recruitment freezes.
* Stopping or reducing overtime.
* Offering early retirement to volunteers (subject to complying with age discrimination law).
* Retraining or redeployment.
* Offering existing employees sabbaticals and secondments.
* Pay freezes.
* Short-time working.
* Other ‘alternatives to redundancy’ schemes where employees do not work for their employer for a specified period and are free to seek new work whilst receiving an allowance.

However, employers may not be able to adopt these without breaking their employees’ contracts, so they need to take care when considering alternative approaches.

If the redundancy involves more than 20 employees, the employer must inform the Redundancy Payments Service acting on behalf of the Department for Business, Energy & Industrial Strategy (BEIS).

Identifying the pool for selection

The group from which employees will be selected for redundancy (the selection pool) must be carefully identified. It will usually consist of at least one of:

* Those who undertake a similar type of work.
* Those who work in a particular department.
* Those who work at a relevant location.
* Those whose work has ceased or been reduced, or is expected to do so.

In many redundancy situations, the employer may identify a range of selection pools. If an employer fails to consult and consider a selection pool correctly, the dismissals will be legally unfair.

Seeking volunteers

After a careful planning stage, offering a voluntary redundancy package and seeking volunteers may avoid compulsory redundancies.

Consulting employees

As well as individual consultation, if 20 or more employees at one establishment are to be made redundant, collective consultations with recognised trade unions or elected representatives must start within minimum time scales. For dismissals of 100 or more employees, this is at least 45 days before the notification of redundancies. For dismissals of 20-99 employees, it’s at least 30 days before the notification of redundancies.

Collective consultation must be completed before notices of dismissal are issued. If there are no recognised trade unions or employee representatives, the employer must facilitate an election, by the employees, of representatives for the consultation. The law requires ‘meaningful’ consultation – it’s not enough only to inform employees of a decision that has already been made. For example employees are entitled to be consulted on the proposed selection process and scoring system. If employers fail to collectively consult the maximum extra compensation payable is 90 days’ pay per employee, known as a protective award.

At the start of the consultation process the employer is legally obliged to give the following information to the representatives:

* The reason for the redundancy dismissals.
* The number of proposed redundancies and their job types.
* The total number of employees affected.
* The proposed methods of selection.
* The procedure to be followed in dealing with the redundancies.
* The method of calculating redundancy payment.

Employers are also required to consult individual employees and give them reasonable warning of impending redundancy. Although there’s no minimum statutory timescale when fewer than 20 employees are made redundant, the individual consultation must be meaningful and may also be covered by contractual terms or policies. An employee is entitled to be accompanied at all individual consultation meetings by a trade union representative or colleague.

Selection for redundancy

When the consultation is finished, the employer may need to choose individuals from within the selection pool if there are not enough volunteers for redundancy. These choices must be based on objective criteria such as:

* length of service (only as one of a number of criteria)
* attendance records
* disciplinary records
* skills, competencies and qualifications
* work experience
* performance records.

‘Last in, first out’ (LIFO) is a risky selection method as those with less service are likely to be younger so this could result in potential age discrimination claims. Case law shows that LIFO may still be relevant as part of a wider range of selection criteria, but it mustn’t be used as the sole method, and the employer must be able to justify its use. It can also be an unsatisfactory way of keeping the most competent employees.

Employment tribunals look favourably on selection procedures based on a points system which scores each employee against relevant criteria. Employers must take great care in the choice and application of the criteria to avoid discrimination. For example, selecting part-timers could be discriminatory if a high proportion of women are affected.

Scoring should, if possible, be carried out independently by at least two managers who know all employees in the selection pool. Marks from the two assessors should then be added together to give a total score for each employee.

Appeals and dismissals

The employer should give written notice to those selected for redundancy that they are ‘at risk’ of redundancy and invite them to individual meetings. At least one further consultation meeting should be held, with the actual number of meetings depending on what the employee has to say. The employer must consider any points that the employee puts forward.

Once the individual consultation is complete, the employer must decide whether the employee is to be made redundant and give a written redundancy notice. This will be either the statutory minimum notice or the contractual notice, whichever is the greater. The employer must also explain the redundancy payment calculation.

Employees should be allowed to appeal against the redundancy decision.

It's automatically unfair to make an employee redundant for a number of reasons, including:

* trade union membership (or non-membership)
* part-time status
* pregnancy- or maternity-related reasons.

The law currently gives women made redundant while on maternity leave the right to be offered a suitable alternative role in advance of their colleagues. A Bill to extend this protection for six months beyond maternity leave was not passed in the last Parliamentary session. It may be reintroduced.

In addition, making someone redundant because of their age, sex, sexual orientation, marital status, disability, race or religion or any other protected characteristic is unlawful under the Equality Act 2010.

CIPD members can see more in our [Unfair dismissal law Q&As](https://www.cipd.co.uk/knowledge/fundamentals/emp-law/dismissal/unfair-dismissal-questions/).

Suitable alternative employment

Employers must consider offering suitable alternative work to redundant employees. If employees unreasonably refuse suitable alternative work they may lose their entitlement to a statutory redundancy payment. Employees can have a four-week trial period in a new role. If the employer and employee then agree that the role is not a suitable alternative, the employee reverts to being redundant.

The law requires employees who have at least two years’ service to be given paid time off to look for work during the final notice period.