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**1. Redundancy Procedure**

Have you ceased, or do you intend to cease, the business on the relevant business at or reasonably near the place where the employees are employed? Or is the requirement for work of that nature expected to arise?

- 1.1 If NO to both → potentially no redundancy.
- 1.2 If YES to either → Q2.

**2. Have you considered practical alternatives to redundancy?**

Alternatives may include overtime work, transfer to another business, short-time working, lay-offs, etc. If your business is sufficiently large, you should consider alternative employment.

- 2.1 If NO → potentially unfair dismissal.
- 2.2 If YES → Go to Q3.

**3. Consultation with appropriate representatives (including collective consultation)**

If 20 or more employees are affected by the proposed dismissals or elected spokespersons, you must consult with appropriate representatives. You should choose representatives. You should choose the election of employee representative should not be someone who may be affected by the proposed dismissals. If employees fail to elect representatives, you must consult with each affected employee the information that must be provided to the elected representative.

You must ensure that the employees understand what their role in the consultation process entails.

You should be aware that the obligation to consult only relates to any employees who may be affected by the proposed dismissals taken in connection with those dismissals (e.g. alternative work), not those proposed to make redundant.

**How many employees are going to be dismissed?**

If between 20 and 99 staff are being dismissed, you must begin consultation at least 30 days before the dismissal takes effect;

If 100 or more employees are being dismissed, you must begin consultation at least 45 days before the dismissal takes effect;

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If 20 or more staff are to be affected by a redundancy, the Secretary of State for Business, Energy and Industrial Strategy 30 days notice must be given if 100 or more employees are involved. Failure to do so can lead to a fine and a fine;

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Please note that the consultation period starts on the date of the first collective consultation meeting.

as of the date of the first

If fewer than 20 employees are to be made redundant, there is no legal requirement to consult a recognised trade union.

there is no legal requirement to

In calculating the number of employees affected by the proposal, remember that:

the proposal, remember that:

- Voluntary redundancies are not counted.
- Redeployment will count towards the total number of employees affected.
- Employers cannot deliberately make employees redundant in order to avoid the need to consult collectively.

proposed dismissals; and

Employees on fixed term contracts that expire at the end of the agreed duration are not included in the calculation.

es in order to avoid the need to

e end of the agreed duration are

#### 4. Have you consulted with the appropriate representatives?

#### representatives?

You must provide the appropriate representatives (or trade union representatives) with: reasons for the proposed redundancy; the total number of agency workers they are utilised and the type of work they are doing; the proposed method of redundancy selection; the proposed method of redundancy payments; and any procedural plans.

ee representatives or trade union representatives; details of employees involved in the redundancy (if any), the business in which the redundancy is to be undertaken; redundancy selection criteria; and any redundancy payments; and

The purpose of the consultation is to allow the representatives to discuss the numbers to be made redundant and the proposed method of redundancy selection.

ding the dismissals, reducing the numbers of employees affected by the dismissals.

You must not start making any redundancy selections until you have completed collective consultation of the appropriate representatives and the numbers of employees affected.

selection purposes until you have completed collective consultation criteria and the numbers of employees affected.

4.1 If NO → you may have a claim for a protective award. A 'protective award' is the employee's right to be reinstated to their job for a 'protected period'. The maximum length of the protected period is 90 days.

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4.2 If YES → Go to Q5.

#### 5. Identifying the redundancy selection criteria

You must consider carefully the 'pool' of employees from which those who are to be made redundant will be selected. This is so that the redundancy is fair. If the potential redundancy is because of a particular type of work, then employees doing the same or similar work should also be included in the pool.

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**6. Deciding on the candidate**

Once the redundancy pool has been established, ensure that they are objective and fair.

- Attendance record (excluding absence due to pregnancy or disability);
- Disciplinary record;
- Skills and experience; and
- Standard of work performance.

If you recognise a union or have elected representatives, you must consult with them as to the appropriate selection criteria.

Is the selection procedure fair, clear and consistent?

Race, gender, marital status, disability, age, pregnancy, part-time status, fixed term status, pregnancy, trade union membership (or lack thereof) should not be used as selection criteria.

**6.1** If NO → redundancies will be considered as unfair dismissal and there may also be potential discrimination claims.

**6.2** If YES → Go to Q7.

**7. Consultation with individuals**

Have you notified any employee who may be away from the office electronically?

Have you written to the employee who may be away from the office on the reason for the potential redundancy?

Have you invited the employee to a meeting to discuss his or her situation including those who may be away from the office or secondment? This will involve explaining to each affected employee why he or she has been provisionally selected for redundancy, giving the opportunity to express his or her views, to ask any questions and to discuss alternative arrangements.

Individual consultation with employees who are also required to consult collectively. These individual consultations should comprise at least 2 meetings between the potentially affected employees and the Company. No decision should be taken until the Company has consulted employees who have been notified that they are potentially affected.

**7.1** If NO → unfair dismissal.

**7.2** If YES → Go to Q8.

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Consider your selection criteria and ensure they are objective and fair. They should include:

Attendance record (excluding absence due to pregnancy or disability);

If you recognise a union or have elected representatives, you must consult with them as to the appropriate selection criteria.

Race, gender, marital status, disability, age, pregnancy, part-time status, fixed term status, pregnancy, trade union membership (or lack thereof) should not be used as selection criteria.

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**8. The Consultation:**

You have no statutory obligation to hold meetings to discuss redundancy, but you should do so.

Similarly, you have no statutory obligation to give the employee the right to appeal against his or her selection for redundancy. However, your policy on managing redundancies recommends setting up an appeals process. Your policy states that this should reduce the likelihood of employees bringing an appeal. The event that employees feel the selection criteria have been applied unfairly.

Have you informed the employee of his or her right to be accompanied at the meeting?

Have you informed the employee of his or her right to appeal?

**8.1** If NO to either → increased risk of unfair dismissal.

**8.2** If YES to both → Go to Q9.

**9. Have you called for volunteers?**

**9.1** If NO → it is not essential, but you should do so.

**9.2** If YES → Go to Q10.

**10. Have you considered suitable alternative employment?**

You should take reasonable steps to offer suitable alternative employment for affected employees as a means of avoiding redundancy.

Suitable alternatives should be compared to the previous contract. If an alternative position would involve, say, a change of status, an employee would not be interested in it. The same applies to a change of location. You should provide employees with details of all vacant positions and let them know what you intend to do.

A statutory trial period of four weeks applies to suitable alternative employment.

Remember that, if an employee on a fixed-term contract is given notice of redundancy, you are under a duty to offer the employee any suitable alternative employment that exists.

**10.1** If NO → potentially unfair dismissal.

**10.2** If YES → potentially fair dismissal.

**11. Is the employee entitled to a statutory redundancy payment?**

The employee must have had two years' continuous employment and must have been dismissed for reason of redundancy.

If the employee refused a reasonable offer of suitable alternative employment, he or she will not be eligible for a statutory redundancy payment.

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Remember that, if an employee on a fixed-term contract is given notice of redundancy, you are under a duty to offer the employee any suitable alternative employment that exists.

**10.2** If YES → potentially fair dismissal.

**11. Is the employee entitled to a statutory redundancy payment?**

The employee must have had two years' continuous employment and must have been dismissed for reason of redundancy.

If the employee refused a reasonable offer of suitable alternative employment, he or she will not be eligible for a statutory redundancy payment.

A basic award for redundancy is calculated based on length of service, age and weekly pay. The maximum statutory award is £16,140. Statutory and non-statutory redundancy payments are subject to a tax-free limit.

Cases of unfair dismissal can result in:

- A basic award of up to a maximum of £16,140
- A compensatory award of up to £519 (unlimited if the dismissal / selection for redundancy is based on age, sex, race, religion or public interest disclosure). In some cases, you may lead to claims of unfair dismissal. If you are offered a Settlement Agreement with a release of claims, you should consider signing a

formula based on length of service. The maximum statutory award is £16,140. Statutory and non-statutory redundancy payments are subject to a tax-free limit up to the £30,000 tax-free limit.

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