



THE ARCHDIOCESE *of* BIRMINGHAM

Redundancy and Restructure

Managing Organisational Change

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Outline of Session

- Legal Definition
- The Procedure
- Who to Consult
- Dismissal and Appeals
- Additional Rights

Legal Definition

Section 139 of ERA 1996 states:

For the purposes of this Act an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to-

A -the fact that his employer has ceased or intends to cease-

- to carry on the business for the purposes of which the employee was employed by him, or
- to carry on that business in the place where the employee was so employed, or

Legal Definition

B - the fact that the requirements of that business-

- for employees to carry out work of a particular kind, or
- for employees to carry out work of a particular kind in the place where the employee was employed by the employer,

have ceased or diminished or are expected to cease or diminish.

The focus is not on whether there is less work, but whether the employer can demonstrate a need for fewer employees to carry out the work.

Redundancy Dismissals

- Redundancy is one of the 5 fair reasons for dismissal.
- Evidence:
 - The closure of a business
 - The closure of a particular workplace, or
 - A diminished need for employees to carry out work of a particular kind

Diminished Need for Employee(s)

Covers scenarios such as:

- Employer/school requires fewer employees to do same amount of work
- there is less work available at school/trust
- Employer/school no longer requires employees to do the work because of, eg the introduction of new technology, change in curriculum etc

Collective Consultation

Consultation should begin in good time and must begin at least:

- 30 days before the first dismissal takes effect, if 20 to 99 employees are to be made redundant at one establishment over a period of 90 days or less
- 45 days before the first dismissal takes effect, if 100 or more employees are to be made redundant at one establishment over a period of 90 days or less.
- No CES redundancy policy, but most schools will have a policy and this could include a specified set time for consultation even if less than 20 employees may be made redundant

DON'T FORGET TEACHER LEAVING DATES

Collective Consultation

Meaningful Consultation will include:

Ways of:

- avoiding dismissals
- reducing the number of employees to be dismissed/made redundant
- mitigating the consequences of dismissal
- Consult with a view to reaching agreement
- Keeping an open mind
- Properly consider any responses from trade union and/or employee representatives

Collective Consultation

Certain information must be disclosed in writing:

- reasons for the proposed redundancies
- numbers and descriptions of posts affected
- proposed method of selecting the employees who may be dismissed
- proposed method of carrying out the dismissals, taking account of any agreed procedure, including the period over which the dismissals are to take effect
- how redundancy payments, other than the legal minimum, will be calculated.

Individual Consultation

- Whether you have collective consultation or not, you must meet individuals affected:
 - Share with them the proposals and the reasons,
 - If they are in a selection/ring fence pool,
 - If you are open to expressions of interest in Voluntary Redundancy (VR)
 - Dates when you envisage the proposal to take effect.

Avoiding Redundancies

It is necessary to take steps to avoid compulsory redundancies:

- Natural wastage
- Seek out interest in early retirement
- Restrictions on recruitment
- Retraining and redeployment
- Reduction/elimination of overtime
- Seek applications for Voluntary Redundancy
- Review temporary/agency workers/casual labour
- Reducing or stopping overtime/additional hours
- Seeking applications from existing staff to work flexibly
- Vacancy freeze

Are you making redundancies?

I am overcome by emotions. Some days I feel high, some days I feel low. Is that normal?

I feel so out of touch with the job market.

Why have I been made redundant? Why wasn't my colleague also made redundant?

My team are demotivated and no longer trust the organization. How can we rebuild their trust?

What will I do next? How will I get a new job?

Selection Criteria

Criteria should be:

- Objective not subjective
- Fairly Applied
- Consistent

Selection Criteria

- Skills and aptitude
- Knowledge
- Qualifications
- Attendance record
- Disciplinary record
- Standard of work and/or performance

And

- If everything else is equal – cost

Discuss – How do you get this information?

Discrimination

- Do not rely on length of service as your only selection criteria, as this is likely to be age discriminatory
- Some selection criteria are automatically unfair, such as pregnancy, family, including parental leave, paternity leave (birth and adoption), time off for dependants, acting as trade union representative, being part time, age, disability, gender reassignment, religion, sexual orientation, pay and working hours

Practical Tips

- Involve more than one person in the selection process
- Reduces risk of perceived bias or discrimination
- Use a skills matrix – a tribunal will ask whether the employer acted reasonably in selecting particular employees. The law recognises that different people can legitimately have different views as to what is or is not a fair reason to a particular situation

Redundancy Notice

- Employees who are selected for redundancy must be given a notice period before their employment ends. The statutory notice periods are:
 - at least one week of notice if the employee has been employed between one month and two years
 - one week of notice for each year of employment between two years and 12 years
 - 12 weeks of notice for someone who has been employed for 12 or more years.
- Teachers – 30th April, 31st August, 31st December

You will need to pay through the notice period. Employment can be ended without notice if payment in lieu of notice is included in the contract or if the employee accepts this.

Taxation

- Statutory redundancy payment exempt from income tax
- Counts towards £30,000 tax-free limit
- Non-statutory redundancy payments taxable only to extent exceed £30,000 limit
- Payments not made to compensate for loss of employment through redundancy taxable
- PILON is taxable
- Accrued but unused holiday pay is not tax free

New mums to receive six months more redundancy protection



Research found that one in nine women said they had been fired or made redundant when they returned to work after having a child, or treated so badly they felt forced out of their job. The research estimates 54,000 women per year may lose their job due to pregnancy or maternity.

Pension Strain for Support Staff and Redundancy Costs

- Local Government Pension Scheme if aged 55+ for extra or lost LGPS pension
- Automatic right to non-reduced pension if redundant – must take benefits due if retired early on grounds of redundancy or business efficiency
- The cost of the pension strain can be substantial
- Often the pension cost falls to individual schools or trusts to cover, a few LA's may still cover the cost

Redundancy Costs

- VA Schools – Check with your LA as some cover the cost of redundancy payments (if correct procedures are followed & fair funding agreement terms)
- Academies – Cover their own redundancy costs

Templates

- Skills Matrix/audit
- Diagram illustrating a typical school redundancy procedure

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