

# IMS Buzzacott

## Tough times call for tougher measures

The current economic climate is leading many organisations to review their operations to achieve maximum efficiency and productivity. This exercise is likely to result in a freeze on recruitment and, more drastically, restructuring of operations which could lead to redundancies.

### Redundancy

Although tough times do call for tougher measures, employers should carefully consider whether redundancies can be avoided. In the event that redundancy is unavoidable, employers are required to follow the statutory procedures prescribed for redundancy.

For example, based on the Employment Rights Act 1996, employers can “fairly” dismiss an employee because of redundancy. Redundancy occurs when an organisation can no longer carry on its operation for one reason or another, it would also occur where the employer has no further work for the employee to undertake.

In order to “fairly” dismiss employees as redundant, employers are required to follow a set process.

Employers need to:

- Ensure that there is a clear business case for the proposed redundancy
- Develop and apply a fair selection criteria for the proposed redundancy
- Notify and consult employees and their representatives throughout the process
- Ensure that termination is in line with the statutory dismissal procedure
- Ensure redundancy payment complies with statutory legislation such as Age Discrimination
- Notify the Secretary of State, as necessary

### Potential Penalties

Where employers fail to manage the process in line with legislation, employees have the right to make a claim to an Employment Tribunal. Claims can carry huge awards and in some cases be unlimited. Such claims can be for:

- Unfair dismissal
- Constructive dismissal
- Failure to consult
- Discrimination on the grounds of age, sex, race, nationality etc.

### Recent cases

The following cases highlight some of the areas where employers have fallen foul of the legislation associated with redundancy.

In *Hardy v Tourism South East* [2005] IRLR 242 EAT The European Appeal Tribunal (EAT) held that the employer has an obligation to pursue collective consultation where it was proposing to dismiss as redundant 20 or more employees at one time.

In *Leicester County Council v Unison* [2006] IRLR 810 CA. The EAT confirmed that consultation must take place before notices of dismissal are issued.

### Help is on hand

If you are contemplating redundancy, the **Buzzacott HR Consultancy** team can assist you with every aspect of the redundancy process by:

- Offering practical help and commercial advice on how organisations might effectively minimise or execute their redundancy plans
- Working with organisations to develop appropriate redundancy policy and procedure to meet their needs
- Working with clients to take them step by step through the employment maze that is associated with redundancy
- Project managing the redundancy process on behalf of your organisation by developing a business case for redundancy through to issuing a final notice(s) for redundancy

### Contact us

Should you require further advice and guidance please do not hesitate to contact:

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