

Redundancy: Know Your Rights

What is redundancy?

In broad terms, an employee's role becomes redundant if his position is no longer required. However, under the legal definition, a redundancy must fall within one of three situations for it to be genuine.

The three redundancy situations identified are closure of an entire business, closure of the employee's workplace and a diminishing need for employees to carry out work of a particular kind. Under the third situation the following reasons are often cited by your employer: new technology has made your job unnecessary, the requirement to cut costs results in the need for a more efficient use of labour or the job you were employed for no longer exists, perhaps due to a business reorganisation.

What procedures must your employer follow?

In order for any dismissal by reason of redundancy to be fair, the employees affected should be given as much notice as reasonably possible that their position is at risk of redundancy.

Your employer should select you fairly. Where a number of people perform the same or similar roles a selection process must be followed. The employer may choose criteria reflecting the needs of the business. Employees should be consulted about these criteria. The most commonly used reasons are: disciplinary records, sickness records and job performance, sometimes by reference to appraisals or in accordance with ratings given in the redundancy process. You should be consulted about the redundancy and considered for any suitable alternative positions before any final decision is taken.

If you believe that your employer has selected you unfairly you should appeal against the decision, if one is offered. Your employer does not have to offer you a right of appeal (as the ACAS Code of Practice on Disciplinary and Grievance Procedures does not apply to redundancies).

If twenty or more employees are proposed to be made redundant, the employer must follow a statutory consultation process for a minimum period of time with employee representatives as well as individuals.

The employee also has a statutory right to a reasonable time-off work to look for new employment when they are formally notified of redundancy.

What are you entitled to under a redundancy dismissal?

Employees have a right to notice and a statutory redundancy payment calculated by reference to age, length of service and weekly earnings (currently capped £400). You are also entitled to receive holiday pay for any accrued untaken holiday at the date your

employment terminated as well as notice in accordance with your contract subject to a statutory minimum.

Your employer may also offer you an enhanced redundancy payment. Normally this payment is made to you under the condition that you will sign a termination agreement, which is often referred to as a Statutory Compromise Agreement.

In order to then accept this enhanced redundancy payment, you would need to seek independent legal advice as to the terms and effect of the agreement. This often also gives you the opportunity to challenge the redundancy dismissal and/or the proposed payments.

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This article is not intended to be a full summary of the law and advice should be sought on individual situations.