

# Ellisons

## SOLICITORS

### Essential Information Leaflet: EMPLOYMENT

#### REDUNDANCY

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In the present economic climate many employers are considering making redundancies. However the process of making redundancies is easy to get wrong and employees will often challenge the decisions made by employers and the way in which redundancies are effected. Often these challenges result in Employment Tribunal proceedings and employers seeking to save money by reducing the workforce, could find themselves having to make compensation payments at a time when they are trying to minimise their financial outgoings.

#### **Is there a redundancy situation?**

The first issue to consider is whether or not there is a genuine redundancy situation. Helpfully there is a statutory definition of redundancy which includes situations where the work diminishes or ceases or the need for employees to carry out work of a particular kind diminishes or ceases.

#### **Issues for Employers to address:**

Employers are often frustrated by the inability to simply decide which workers they would like to lose in a redundancy situation. Even where an employer considers that they know what the result of a consultation exercise will be, it is advisable to follow the required steps in order to both minimise the employer's risk and to reassure the employees that a fair process has been followed.

The following are some of the key issues for employers to address:

- Which workers will form the *pool for selection*.
- Which *selection criteria* will be utilised.
- A timetable for *informing and consulting* with potentially affected employees which will require a number of meetings which must be properly documented.
- The availability of *suitable alternative employment*.
- Applying the current *statutory procedures*.

## Who can bring a claim?

An individual who is an employee and who has been employed for one complete year can bring a claim that they have been unfairly dismissed on the basis that they have been unfairly selected for redundancy. Curiously, an employee requires 2 year's continuity of service in order to qualify for a statutory redundancy payment.

## How long does an Employee have to bring a claim?

A claim for unfair dismissal (based upon unfair selection for redundancy) should be brought within 3 months of dismissal. A claim for a redundancy payment must be brought within 6 months of dismissal. However, an employee who considers that their selection for redundancy was discriminatory does not require a year's continuity of employment to bring a claim.

## Statutory Redundancy Payments and Compensation

Statutory redundancy payments are based upon age, length of service (only complete years of service count for calculation purposes) and the amount of gross weekly wage. For dismissals taking effect before 1st February 2009, the gross weekly wage is capped at a maximum of £330 so that even if an employee earns more than this, the figure of £330 will be used for calculation purposes. If an employee earns less than this then the lower figure will be used. For dismissals taking effect on or after 1st February 2009 the gross weekly wage is capped at £350.

Some employers will enhance the statutory redundancy payment either via a contractual scheme or by exercising their discretion.

If the redundancy dismissal is unfair a compensatory award will be made by a Tribunal (see Unfair Dismissal - What compensation is awarded to those who bring successful claims?).

**NB** There are specific obligations on employers who make large scale redundancies – further advice should be sought.

*The information given herein is not a comprehensive guide to the law and is intended to be a brief and non-exhaustive summary only. Specific legal advice should be sought for actual cases.*

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