

# HOW TO MANAGE A REDUNDANCY

## WHAT IS A REDUNDANCY

Under Employment (Jersey) Law 2003, redundancy is triggered when an employee is dismissed due to:

- The employer ceasing or intending cease carrying on the business for the purposes of which the employee was employed; or
- The employer ceasing or intending to cease carrying on a business in the place where the employee was employed; or
- The requirements of the employer's business being such that the requirement for employees to carry out the work of the particular kind carried out by the employee have ceased or diminished; or
- The requirements of the employer's business being such that the requirement for employees to carry out work of the particular kind carried on by the employee have ceased or diminished at the place where the employee works.

## WHAT DO YOU NEED TO KNOW?

### FAIR DISMISSAL

Before any decisions are made you must follow four ordinary principles of fairness:

1. Duty to consult with the employee
2. Duty to warn of redundancy
3. Duty to establish fair criteria for selection of employees for redundancy
4. Duty to explore alternatives for redundancy

Failure to satisfy any of the above may result in an adverse finding at Employment Tribunal.

### STATUTORY MINIMUM REDUNDANCY PAY

- 2 years qualifying service
- A minimum of one week's pay per complete year of service,
- A week's pay is capped at a maximum of £740 per week.
- The statutory entitlement may be higher subject to contractual entitlement.
- Redundancy payments are payable in addition to statutory or contractual notice periods.
- Redundancy payments up to £50,000 are exempt of income tax (at July 2019)

### PAID TIME OFF

An employee who is given notice of dismissal by reason of redundancy will have a statutory 40% of one normal working week as paid time off to look for work or arrange training.

E.G. a full time employee working a 5 day week would be entitled to a minimum of 2 days paid time off to seek alternative employment or make arrangements for training for future jobs.

### STATUTORY NOTICE PERIODS

Apply to anyone over the age of 16. The period of notice to be given by the employer is:

- 1 week if continuous service is less than 2 years.
- 2 week's if continuous service is 2 years or more but less than 3 years
- Plus 1 week's notice for each additional year of service up to a maximum of 12 weeks.



## YOU NEED TO KNOW

### CONSULTATION

- Consult with elected representatives of the affected employees. They include either trade union or appointed employee representatives.
- Provide representatives with the following information in writing:
  - A copy of any notification sent to the Minister;
  - Reasons for the redundancy proposals;
  - Numbers and descriptions of the affected employees;
  - Total number of employees at the establishment;
  - Proposed method of selecting the employees who may be dismissed;
  - Proposed method of carrying out the dismissals, including procedures and time periods; and
  - Proposed method of calculating redundancy payments.

You must Consult with the representatives about ways of:

- Avoiding redundancies;
- Reducing the numbers of employees to be dismissed; and
- Mitigating the consequences of the dismissals.

### HAVE A CLEAR REDUNDANCY PLAN IN PLACE

1. Consider alternatives - avoid redundancies if possible! If it is not avoidable then carefully plan your redundancy procedure and make sure you have a valid reason for reducing your number of employees.
2. Carefully identify any selection pool and selection criteria- if these are not considered correctly, the dismissals will be legally unfair.

### THE STAGES FOR FAIR SELECTION AND CONSULTATION

1. Announce the redundancy to employees - advise them in writing their role is at risk of redundancy. Ask for volunteers, do collective if required. This takes at least place one week before stage 2.
2. Start the consultation process - individually interview each person in the selection pool. Employees will have the statutory right to representation from this stage.
3. Interview the employees again and readdress the points in stage 2. This stage takes place at least one week after stage 2.
4. Assuming no alternatives have been found issue notices of redundancy.
  - Confirm the severance terms and whether notice will be worked, paid-in-lieu, or garden leave.
  - Inform the employee of their right of appeal

### COLLECTIVE CONSULTATION

This is required where 12 or more employees are proposed to be made redundant at one establishment within a period of 30 days or less.

In this case there is a requirement to:

- Consult with representatives before initiating individual consultation
- Consult collectively

Even in a non-unionised environment, it is necessary to elect representatives. The employer must ensure that all employees have an opportunity to stand for election, that the elections are fair and the chosen representatives are appropriate.

In addition to individual consultation, there is an obligation to:

- Notify the Minister for Social Security in writing of the proposed redundancies before giving the employees notice or at least 30 days before the first dismissal takes place; and
- Begin collective consultation 30 days before the first dismissal takes effect.

Failure to comply with collective consultation provisions may result in the Tribunal making a protective reward of up to 9 weeks' pay to all affected employees.

## WHAT YOU NEED TO DO

### OTHER CONSIDERATIONS

- Severance packages - offer enhanced pay and benefits and support to find their next opportunity.
- Compromise agreements / JACS1 - agreements signed by you, the employee and their legal adviser setting out the severance terms. This would protect you from potential claims of unfair dismissal, but you need to pay more than the statutory entitlement.
- Communicate positively with those who are staying.



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