



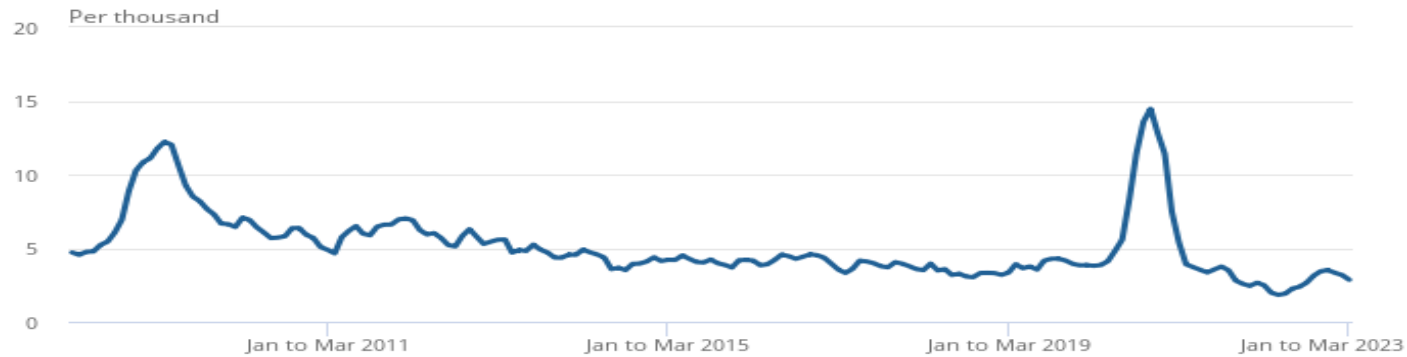
Redundancy: How to conduct a fair process

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Some facts and figures



Source: Labour Force Survey from the Office for National Statistics

But a recent ACAS survey found 3/10 employers plan to make redundancies in the next 12 months

Redundancy concept

Role no longer needed due to:

- Business closure
- Workplace closure
- Reduced requirements



Fair redundancy

- Redundancy: potentially fair reason
- Process, including consultation
- Selection
- 2 year qualifying period for claims
- Discrimination?
- Decision
- Appeal?

Edinburgh L199
Rochester 25
ECON. EXPLOITATION

Redundancy

Dear Mr. Miller,

on behalf of the manager
official letter in order to

Why is fairness important?



- Basic award/statutory redundancy = £19,290
- Compensatory award = £105,707 or 1 year's gross pay If less
- Discrimination claims: unlimited compensation
- Legal costs
- Management time



Consultation

- Proposal not decision
- Agreement not needed
- 14 day period?
- Collective – 20 or more dismissals/30 or 45 days
- Rationale – first stage
- Selection scores – second stage

Selection pool

- Which group at risk?
- Wide/narrow? Employer decides
- “Pool of one”?
- Similar skills/roles



Selection criteria

- Objective assessment; avoid indirect discrimination
- LIFO/length of service
- Performance
- Skills/experience/qualifications
- Attendance record
- Disciplinary record
- Weighting



Alternative role

- Alternative role available?
- Present all available opportunities
- Must be suitable
- Even if suitable, employee can still refuse if reasonable
- Trial period



Case Study: Enterprise Ltd



Enterprise Ltd is a logistics company which distributes equipment across the UK and mainland Europe. Over 150 drivers are employed, with over 100 responsible just for transporting goods across Germany. Drivers work in set shifts each week.

Following the pandemic Enterprise Ltd have found that their orders, requiring transport of goods across Germany, has almost halved and they no longer have sufficient work to provide their drivers. They decide to reduce their entire driving workforce by half. They invite all staff to a meeting and explain the issue facing the business and asks for any comments. None are forthcoming so Enterprise announces that any drivers who work on Mondays or who joined the Company since 2020 are made redundant with immediate effect.

At the same time, James Kirk, MD, decides to also make Scotty, one of the office administrators, redundant as Scotty has been persistently late for work. He also makes Mr Spock redundant as he finds his pointed ears off putting.

Case Study: the answers



CASE STUDY

Procedural defects

- No fair selection criteria or pool
- No meaningful consultation
- Any alternatives?
- No right to appeal?

Substantive defects

- No genuine redundancy rationale for all drivers?
- Scotty and Mr Spock – no fair reason
- Discrimination?

Should you ask for volunteers?

- No obligation
- Could avoid consultation/selection process
- Enhanced redundancy packages/settlement agreement
- Reserve the right to refuse any application but...



Redundancy: the cost?

- Notice entitlement
- Redundancy pay = statutory maximum of £19,290
- Enhanced contractual?





Alternatives

- Reduce headcount
- Temporary suspension
- Reduce hours
- Statutory lay off/short work

Dispute resolution

- Tribunal Proceedings
- Settlement Agreement
 - Confidentiality provisions and non-competition restrictions
- Mediation





Conclusion

- Consider alternatives
- Follow a fair process
- Consultation essential
- Collective?
- Objective/non-discriminatory selection
- Written records

Any Questions?



Meet the Speakers

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