

# How to ....Redundancy

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## Introduction

This document has been put together specifically to deal with the current Coronavirus Pandemic. At this time (21<sup>st</sup> March 2020), employers are being asked NOT to make their staff redundant. Alternative measures include:

- Lay-off's
- Short term working
- Furlough leave
- Unpaid leave
- Unpaid Parental leave
- Annual leave

There is a 'how to' guide available for lay-offs and Short Term Working at [www.dohr.co.uk/covid-19](http://www.dohr.co.uk/covid-19)

In this document, we are providing generic information about redundancies to enable you to ask the right questions of your advisors.

This advice is focused on employers with less than 20 staff. With more than 20 staff, group consultation rules do currently still apply.

## What is a redundancy situation?

A redundancy situation exists where:

- You shut down a business or part of it completely.
- Your requirement for employees to do work of a particular kind has reduced or come to an end.

## If you believe you have no alternative to redundancy

Key words to remember:

- Legal
- Fair
- Transparent
- Communication

There is a lot of law surrounding redundancies and ensuring that you comply is essential, even during these unprecedented times.

Currently, the risks of non-compliance is that the employee could take you to an employment tribunal on claims such as unfair dismissal, breach of contract, illegal deduction of wages or discrimination. These are expensive in terms of time and money if you are going to try to defend it. An employee has up to three months following their termination in which to bring an Employment Tribunal claim. We have not seen or heard anything which would suggest that normal employment law is being relaxed, so do ensure that any steps you take are legally compliant.

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If you need any assistance with any of the issues raised in this document, please email us using [support@dohr.co.uk](mailto:support@dohr.co.uk)  
Please be aware that a fee may be charged if you are not a DOHR retained client.

A person can be made redundant if:

- their role disappears
- no one is hired to replace them
- there is no longer a job to be done

Extreme care must be taken when making people redundant as a result of Coronavirus. At the moment there is a lack of clarity and we have no idea how long the current situation is going to last. Uncertainty makes decision making very hard. As an employer, you need to take a decision based on the best information available to you at the time. You should document this as a business case and include the following:

- All other measures you have considered to avoid redundancies
- Your business plan for the next 3 – 6 months, including financials
- How you are selecting people for redundancies (if you are not making the entire workforce redundant)
- Why Furlough Leave is not an option

A redundancy process usually requires a period of consultation during which the employer and employee look for alternatives to redundancy i.e. reduced hours, alternative roles, unpaid leave etc. This is usually a period of 30 days, but given the current circumstances, as long as you have made reasonable attempts to consult, then we believe it will be sufficient.

Once the consultation period has expired, the employee is given formal notice of redundancy. They would often work their notice period before leaving the business, but they can be paid in Lieu of Notice. They are entitled to their normal pay for any period of notice.

If an employee has more than 2 years service, they are also entitled to redundancy pay. You can find a redundancy pay calculator here: <https://www.gov.uk/calculate-your-redundancy-pay> Please be aware that the current redundancy pay for one week is £525. On 6<sup>th</sup> April, this increases to £538.

## Considerations

1. Is there a job share opportunity?
2. Could hours be reduced by several employees to avoid one being made redundant
3. How will you cover workload if it does pick up, if someone is on holiday, if someone becomes ill etc.?
4. Offer the opportunity to come back as a freelancer if work picks up or to cover holiday periods etc.
5. Agree a reference for future use – you would issue this to a future employer following a formal request from the employer.

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## The redundancy process

1. Planning – identify a need for change in how the workforce is organised or the size of the organisation.
2. Consider alternatives to compulsory redundancy
3. Consultation
  - a. Identify a need for redundancy, the reasons for it, the area where the need arises and the numbers involved.
  - b. Identify the overall pool from which employees are to be made redundant.
  - c. Disclose to the employees the reasons for the proposals, the numbers and descriptions of the employees proposed to be dismissed, the total number of employees of that description, the proposed method of selection, the method of carrying out the dismissals and the method of calculating the amount of any payments
  - d. Invite volunteers
4. If no-one volunteers for redundancy, then LIFO (Last In First Out) or other objective criteria can be applied
5. Notify employees individually in writing that selections for redundancies are taking place and inform them of the method of selection.
6. Select employees using the agreed objective method of selection and objectively identify which employees will be issued with notice of redundancy.
7. Write a full statement of circumstances leading the employer to contemplate a redundancy dismissal, inviting the employee to a meeting.
8. Carry out one-to-one consultation meetings to confirm selection for redundancy.
  - a. Employees need to be formally invited to the meeting
  - b. They must be given at least 24 hours notice
  - c. They must be informed that they have the right to be accompanied by a colleague
9. Issue a formal written notice of redundancy to affected employee(s)
  - a. Confirm redundancy payments
  - b. Confirm notice period
  - c. Allow an opportunity to appeal
10. Make final payment
11. Issue P45

## Consultation meetings

1. The first meeting is informal and requires no notice. The employee does not need to be accompanied. In the meeting the employee is told that they are at risk of redundancy and given a letter explaining the business case and inviting them to a consultation meeting. You must stress that no decision has been made and at this stage they are at risk and the consultation process is there to explore the implications and any suitable alternatives.
2. Meeting 2 – The employee is given an illustration of their entitlement should they be made redundant. The business case is explained and the employer answers any initial questions the employee may have. The employer asks the employee to go away and think about the situation and any alternative suggestions they may have to enable the business to avoid redundancy.

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3. Meeting 3 – This will ideally take place face to face (this can be via video call given the current circumstances), The employee does still have the right to be accompanied. This meeting is an opportunity for the employee to present any ideas they have had. If the employer has more options, they can present and discuss them. No decision should be taken in this meeting. This is again an opportunity for the employee to discuss options and this may include the details of the redundancy package.
4. Meeting 4 – This is the outcome meeting. The outcome may be termination by reason of redundancy, but it could be redeployment, a sideways move, a reduction of hours a job share or any other mutually acceptable solution. This is then confirmed in writing.

The time frame for these meetings can be as little as two weeks. If there is a pool and employees are applying for an internal post, then a full recruitment process may need to take place within this consultation period.