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For convenience (and for no other reason) ‘him,’ ‘he’ and ‘his’ have been used throughout and should be read to include ‘her,’ ‘she’ and ‘her’.
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Facing redundancy is a difficult situation for everyone. Even though employees might value the opportunity to take their life in a new direction, the change that is imposed on them can be very stressful. There is a lot to think about, and often there is not a long period of time to do that thinking.

This book has been written to support those people who are facing redundancy, and for those who have friends or family who have been affected and want to offer effective support.

The book starts by looking at the law. Redundancy has to be managed in certain ways for it to be lawful, and this can sometimes be very confusing for the employees who are caught up in the process. It is hoped that an explanation of the law will help employees to have a clearer understanding of what is happening and the timescales involved.

The book then moves on to think about the financial issues. This is an inevitable stress that accompanies redundancy, as people face a time with no income or a lesser income. We will work through the different issues that need to be considered, an explanation of redundancy payments and an overview of financial support that might be obtainable.

Although it can be difficult, an important part of facing redundancy is to think about the future. Hence, the book goes on to think about the options for the employee. This includes
training and education as well as looking for alternative employment. As well as thinking about the opportunities that are available the book also takes time to think about the application and interview process.

Finally, we will think about some of the emotional responses associated with redundancy – focusing in particular on stress.

Redundancy is a difficult time, but hopefully you will feel more able to manage the situation, or support others facing redundancy, when you have read this book.
CHAPTER 5

The redundancy process

Individual consultation

Once the collective consultation is completed and the selection has been made the organisation then needs to speak to the individuals who have been identified as having jobs that are being made redundant. This process is called individual consultation.

If there is no requirement to have a collective consultation (because 20 or fewer employees are being made redundant), there will only be a period of individual consultation. The process outlined here will be followed, but in addition the management will start the first meeting setting out the reasons for the redundancy and the process that has been followed in selecting which jobs are to be made redundant.

The organisation will write to the employees whose jobs have been identified as being redundant and will invite them to meet with the management to discuss their situation. At this stage the organisation is starting individual consultation – it is not telling employees that they are redundant.

Many employees find this quite a frustrating time. It could be argued that at this stage the organisation has already made its decisions, and whatever the employee says nothing will change. It is certainly true that most employees who start a period of individual consultation do end up being made redundant, but
some do manage to persuade the organisation that they should not be selected.

For example, an employee might have specific skills or do specific tasks that the organisation has not taken into account. If the employee can persuade the organisation that these skills are essential to the success of the organisation, then the redundancy might not happen.

Employees are usually invited to an individual consultation meeting by letter. Employees have the right to be represented at this meeting by a colleague or a trade union representative.

If you are unfortunate enough to be invited to an individual consultation meeting, do try to think of someone that can go with you as your representative. This person can speak for you, or can just be there to support you as you listen to what the management has to say. It is very beneficial to have someone with you. You will probably be quite upset and emotional, and hence it can be difficult to remember everything that is said. Having someone else there means that there are two people listening.

Employees are not entitled to have anyone other than a trade union representative or colleague with them at the meeting, unless they are aged under 18 years, when they are allowed to have a responsible adult with them.

At the meeting the manager should explain why the employee’s job has been identified as being at risk of redundancy. If there has been a selection process, then the employee can ask to see his selection matrix.

The meeting should end without a decision being made, and with the employee being asked to go away and think about what has been said. A further meeting is usually arranged – in a few days’ time. This gives the employee and employer time to think about what has been said, and to think about any response that could be made.
If you are in the situation of attending an individual consultation meeting, think carefully about any response that you might want to give. Think about the skills that you have, any special jobs that you do, or anything else that might mean that the organisation should reconsider making you redundant. Before the next meeting write all this down so that you do not forget anything.

At the next meeting the employee will be asked if there is anything he wants to say about the potential redundancy situation.

Many employees have very little to say, but some have lengthy arguments to present. The management should listen carefully to all that is said.

At the end of this meeting one of three things is likely to happen:

1. The first option is that the management say that they have heard nothing to change their mind and they proceed to tell the employee that he is redundant.

2. The second option is that the management say that some interesting points have been made, and they need to go away and think further about this. In such a situation a further consultation meeting would be arranged.

3. The third option is that the management say that they have decided not to proceed with the redundancy, given the information that the employee has presented.

Whatever happens, the management should write to the employee to confirm what has been decided.

**Appeal**

An employee does not have a legal entitlement to make an appeal against a decision to make his job redundant, but it is
good practice for the organisation to allow an appeal if it is requested. Therefore, most organisations will include the right to appeal as part of the process. When the employee is told that the decision has been made to proceed with the redundancy the employee is usually told about this right to appeal. There is usually a time limit in which to make the appeal (usually just a few days). The management should tell the employee who to address the appeal to. This appeal should be made in writing.

An appeal meeting is very similar to an individual consultation meeting. It should be held by different managers to those who carried out the initial consultation. At the appeal meeting the employee is asked to explain the grounds of the appeal, and the management will then consider what has been said.

At the end of the appeal there are three possible outcomes:

1. The management confirm the decision to make the employee redundant
2. The management ask for time to consider and investigate the issues that have been raised and postpone their decision until they have gathered further information
3. The management decide not to proceed with the redundancy

If you are told that your job is redundant and you decide to appeal, plan carefully for the meeting. Write out the grounds of your appeal and read this out slowly and clearly. Be prepared to answer questions about the points that you have made.

Raising a grievance

If there is no procedure allowing for an appeal and the employee feels that the selection for redundancy has been unfair, the employee could raise a grievance. All organisations are required to have a grievance procedure – which usually involves the
employee setting out the grievance in writing and sending it to the employer, the employer arranging a meeting to discuss the grievance and then allowing an appeal meeting if the employee is not happy with the outcome of the grievance meeting.

If you are not allowed an appeal and you consider that the redundancy is unfair, tell the employer that you want to raise a grievance, and follow the organisation’s procedure.

If you have raised an appeal and have been unsuccessful, it is possible to go on to raise a grievance. However, before proceeding think carefully about the prospects of being successful – particularly as the appeal has already been rejected. Do not put yourself through a lot of stress and worry if there is little prospect of the process changing anything.

CASE STUDY

Brenda was selected for redundancy from a pool of 20 Call Centre Operators. She considered that her selection was unfair because she considered that she was more qualified and experienced than most of the other Operators. She was not able to persuade the management of this in her individual consultation meeting so she appealed against the decision to make her redundant.

Her appeal was heard by a more senior manager who listened carefully to what Brenda had said. As a result he asked for all selection matrices to be reviewed.

Having completed this review he could see that the reason that Brenda had been selected was her restricted skills. Although she had scored highly on experience she was only able to work in one section, having refused the opportunity to learn skills related to other sections. As a result, she had lost a lot of marks in relation to flexibility.
The senior manager was able to explain this to Brenda and hence explain why she had been selected for redundancy. Although she was still selected for redundancy this greater understanding of the reasons why she had been selected did help Brenda to come to terms with the situation.
CHAPTER 6
Redundancy payments

If you are made redundant, you might be entitled to some compensation:

**Statutory redundancy pay**

This is only paid to those who have worked continuously for the organisation for two years or more.

Continuous service can sometimes be rather complicated to calculate, particularly if employees have had breaks in their employment for situations such as career breaks or a sabbatical. If your period of employment has not been straightforward, you might need to take separate advice about the continuity. Note that maternity leave or sickness absence does not break the continuity of service.

Statutory redundancy pay is calculated by using the age and length of service (up to a maximum of 20 years) of the employee. There is an easy calculator that can be used at www.direct.gov.uk. The calculation is worked out using the following formula:

- Compensation of 1.5 week’s pay for each year when the employee was aged between 41 and 64 years
- Compensation of 1 week’s pay for each year when the employee was aged between 22 and 40 years
• Compensation of 0.5 week’s pay for each year when the employee was aged 21 years and less

There is an upper limit for the definition of a week’s pay, which is reviewed by the government in February each year. At the time of writing (October 2009) the amount was £380 per week. Even if you earn more than £380 per week, this is the maximum amount that is used for calculating your statutory redundancy pay.

If you earn less than £380 per week, then your actual weekly pay will be used to calculate your statutory redundancy pay.

If you earn varying amounts – maybe due to working varied overtime, being part of a piecework system or having a varying shift premium – the organisation has to take an average of your last 12 weeks’ pay when calculating your weekly pay.

If your job is made redundant, the organisation should write to you confirming the amount that you will be paid as a statutory redundancy payment. Ensure that you have this confirmed in writing, because this will be an important part of planning for the future. You need to be sure that you understand the amount that you will be paid.

**Notice period**

Employees are entitled to receive a paid notice period. The length of notice is that set out in the contract of employment, or statutory notice – whichever is longer.

Statutory notice is one week’s notice for every complete year of service with the organisation up to a maximum of 12 weeks.

This notice period is paid. The organisation can ask employees not to attend work during that time – this is called being on ‘garden leave’. When an employee is on garden leave he is still an employee, is paid normally and keeps all benefits (e.g. a
company car). He is just not required to attend work.

Another approach that can be used is to pay in lieu of notice. This means that the employment terminates immediately – and the amount of money that would have been earned during the notice period is paid as a lump sum. This is only allowed if there is a clause in the contract of employment setting out that the employer can take this approach.

Alternatively, the employee can work normally during the notice period.

In some situations the organisation might ask the employee to work a longer notice period. This is particularly common if an organisation is being closed down, or if a site is being closed. In such situations there might be the need to phase out certain operations and hence the organisation might not want all employees to leave quickly. The organisation and the employee can agree an extended notice period, but the organisation cannot cut short the notice period.

During the notice period any benefits that you are entitled to will continue.

**Company redundancy pay**

Some organisations have company redundancy schemes which pay redundancy compensation in addition to the statutory redundancy payment.

The organisation should inform you in writing of any additional payments that you will be entitled to.

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**CASE STUDY**

One organisation had a long-established redundancy payment scheme, which gave employees significant additional compensation if they were made redundant. Due to the additional
cost of this scheme the company decided to withdraw it when a number of redundancies were announced.

The trade union that was recognised by this organisation challenged the withdrawal of the scheme, arguing that it was a breach of the employees’ contracts of employment. The matter was referred to the courts, and the eventual ruling was in favour of the trade unions.

If there is an agreed company redundancy payment scheme (or an agreed company redundancy procedure), it must always be followed.

Incentives

Sometimes an organisation will offer certain employees incentives to stay with the organisation for a particular length of time. This is most common when the redundancies are the result of a site closure and the organisation wants some employees to work to finish activities that have been started. If an employee is offered an incentive, then the value of that incentive needs to be balanced against the opportunity to leave to take up other employment if that is secured before the agreed leaving date.
Suitable alternative work

Sometimes an employee’s job is redundant, but there are still vacancies elsewhere in the organisation. Alternatively, there might be no vacancies when the employee is made redundant, but during the employee’s notice period someone might resign creating a suitable vacancy.

If a vacancy occurs which is almost identical (or is identical) to the job that the employee has been doing, then the employee would be expected to fill that vacancy. If the employee refused to take the job, then the employee gives up the right to a statutory redundancy payment.

If a vacancy occurs which is not identical to the job that the employee has been doing, then the employee has the opportunity for a trial period in the new job. This trial period has to last at least four weeks (or it could be for a longer time agreed between the employee and the organisation). If the employee does not think that the job is suitable during or at the end of that trial, the employee can refuse to take the job.

If the organisation accepts that the job was not suitable, then the employee is still entitled to a statutory redundancy payment.

If the organisation thinks that the job was suitable and that the employee has unreasonably refused to do the job, then it can refuse to make a statutory redundancy payment.
If the organisation making redundancies is part of a larger group of companies, then it is possible that suitable alternative employment will need to be considered within other companies. This will largely depend on the location of other companies within the group, and the similarity of the work that is carried out.

If you are offered alternative employment within the organisation, it is important to think carefully before you refuse it. Talk to your line manager and understand whether the job is being seen as the same as (or very similar to) your job which has been made redundant. If it not being seen as the same or very similar, ask if there will be a trial period. Agree what that trial period is, and how the job will be judged as being suitable or not. Be very careful of refusing a job – you could lose your redundancy payment.

**CASE STUDY**

Juliet worked in the head office of a publishing firm. She worked as a team leader in the marketing department. She was selected for redundancy.

Soon after she was informed of her redundancy the HR team leader resigned. Juliet had no experience of working in HR, but she enjoyed working for the organisation and she was prepared to try a different area if it meant that she could avoid redundancy.

Although the skill set for the job was different in many ways, the administrative and supervisory skills that Juliet had were very relevant. Hence, it was agreed that she could try the job for four weeks.

During those four weeks Juliet soon realised that she did not want to work in HR. She missed marketing, and realised that she would rather work in marketing somewhere than stay with the organisation working in a role that she did not want.
The organisation were pleased with Juliet’s performance in the HR team leader role, but did accept that the job was significantly different to the marketing role that Juliet had previously had, and accepted that it could not be argued that the HR role was a suitable alternative.

On that basis, Juliet’s notice of redundancy was reinstated and she left the organisation on the previously agreed date.

**Time off to look for another job**

If there are no employment opportunities within the organisation, employees are likely to want to spend time looking elsewhere for employment.

If an employee has at least two years’ continuous employment on the date that the employment is due to end (the end of the notice period), then the employee is allowed to take a reasonable amount of time off work to look for alternative work. This time off is paid.

*If you have been informed that your job is redundant, and you have at least two years’ continuous employment, talk to your line manager about taking time off to look for another job. Be sure that you keep this to a reasonable amount – talk to your manager about what ‘reasonable’ might mean.*

**Date of termination**

The date that the employee’s employment with the organisation is terminated is the date when the notice period ends.

If the employee is working his notice, then this will be the last day that the employee works for the employer.

If the employee is on ‘garden leave’ it will be the date that the garden leave ends.
If the employee is paid in lieu of notice, it will be the date that this payment is made, because the employment ends at this point.

When you leave the organisation you will be given a P45, which is a document which records what you have been paid during the current tax year, and the tax that you have paid. This document will also record the date that your employment ended. Keep this document safe because it will need to be given to your next employer.

Reference

A reference is a letter written by an employer confirming your employment. Sometimes an employer will write more and will also comment on your abilities and achievements.

An employer does not have to write a reference unless there is a specific contractual obligation, the nature of the industry you are working in requires it (e.g. financial services) or it has always provided references for employees.

Some organisations will agree to write a reference letter for employees who are being made redundant, and give it to them when they leave the organisation. However, prospective employers often want to contact past employers directly – they cannot be certain that the reference is genuine if it is handed to them by an applicant for a job.

Before you leave the organisation discuss the provision of a reference. Ask for one to be provided – it is useful to have even if a prospective employer also wants to contact the previous employer directly. Talk to your line manager and see if he will be prepared to be a referee for you. If several people are leaving the organisation at the same time, it might be necessary to ask someone to be a referee who is also being made redundant. In such a situation ensure that you have the contact details for the person who you want to be your referee.
Unfair dismissal and other claims

Sometimes an employee does not think that he has been treated fairly in the redundancy process. This could be for a variety of reasons, including:

• The employee does not think that there really is a redundancy situation
• The employee considers that the selection process was unfair
• There has not been appropriate consultation
• The employee thinks that he has been targeted for redundancy for some unfair reason – maybe because of his race, gender or disability
• The employee does not think that the statutory redundancy payment has been calculated correctly

If any of these complaints, or other similar complaints, apply, then the employee should start by talking to the line manager or the management who have been responsible for managing the redundancy process. On many occasions it is possible to sort out any concerns in this way. However, if the employee is not satisfied with the outcome of such conversations the employee could take a claim to the Employment Tribunal.

For some claims there is the requirement to have a minimum length of service:

Unfair dismissal

If the complaint is that the dismissal due to redundancy was unfair, the employee must have continuous service with the organisation of at least one year before he is eligible to bring a claim. If the employee is claiming that the dismissal was unfair
for a number of specific reasons (e.g. the employee was selected for redundancy because she was pregnant), no minimum length of service is required.

A claim of unfair dismissal must be registered with the Employment Tribunal within three months of the date that the employment was terminated.

Statutory redundancy pay

If the complaint is that the statutory redundancy pay was not paid, or was calculated incorrectly, there is no minimum length of service to bring a claim (of course, the employee must have two years’ continuous service to be entitled to the statutory payment anyway).

A complaint that the statutory payment has not been paid correctly must be brought within six months of the date that the employment was terminated.

Discrimination

If the complaint is that the employee was selected for redundancy for a reason covered by discrimination legislation (i.e. gender, race, disability, religion, sexual orientation, age), there is no minimum length of service required before a claim can be made to the Employment Tribunal.

A complaint of discrimination must be registered with the Employment Tribunal within three months of the act of discrimination.