What to do when you’re facing redundancy
A short guide to your rights
Welcome

Being made redundant is stressful no matter what the reason, so having a thorough understanding of the process and your rights can make things easier. Redundancy is a complex subject, so while this guide covers general information on your rights, it’s always worth getting advice on your personal situation.

Whether you need to make a big decision or would like advice on an everyday problem, Which? Legal is here for you. Visit legalservice.which.co.uk to find out what we can do for you.

Espe Fuentes
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What is redundancy?

Redundancy is a form of dismissal that isn’t necessarily tied to your performance; it is because your specific job is considered to be redundant. For example, you may be made redundant because your employer is reducing the workforce, a job or jobs are now obsolete, or the company is in financial difficulty.

Businesses may also make employees redundant if they are:
- changing their business model
- introducing new ways of working
- relocating
- downsizing
- closing down.

A company can’t make you redundant if it’s planning on hiring someone else to do your job once you’ve left. This may give rise to a claim for unfair dismissal. In order for a redundancy to be fair, your employer should be able to prove that your job is no longer required.

If you’re made redundant, you may be entitled to certain rights. Eligibility for these depends on several factors, including your time with the company and your employment contract. For example, you may be entitled to:
- a notice period
- a redundancy lump sum payment
- time off to find a new job
- a consultation with your employer to discuss terms.

“Redundancy is a form of dismissal that isn’t necessarily tied to your performance.”

What’s the difference between voluntary and compulsory redundancy?

Redundancy isn’t always compulsory – sometimes an employer will ask workers if they want to volunteer for it. This tends to happen when a company needs to downsize in general, rather than when a certain department is no longer necessary.

While you may be given the opportunity to volunteer for redundancy, there’s no guarantee that you will be selected for it. If your role is still needed by the company, it’s unlikely you will be chosen, as your employer would then need to replace you. Your employer will assess each volunteer on an individual basis and see what the best options are for the company.

Voluntary redundancy

This can take the form of early retirement, when an employer will offer workers incentives similar to a redundancy package in order to retire early. As with voluntary redundancy, this should be offered to everyone in the company and not just individuals. Each volunteer will be assessed to see if their early retirement is what’s best for the company.

Compulsory redundancy

These are made when a company needs to downsize, perhaps for one of the reasons listed on page 4.

In this instance, individuals don’t volunteer for redundancy, but may be selected for it based on a number of reasons including but not limited to:
- quality of work
- skills, qualifications and training
- performance
- attendance
- disciplinary record.

Some employers will make the decision based on how long employees have been at the company. This is usually known as ‘last in, first out’ redundancy. They must still be able to explain the decision and show that it was fair.
The first steps
Your employer must first notify you of the redundancies and provide information on why they are necessary, how many people are likely to be affected and if there are any alternatives, such as changing jobs. Your employer should also tell you how people will be selected, what the process will be and how redundancy payments will be calculated.

Meeting with your employer
If you’re selected for redundancy, your employer should arrange an individual consultation to tell you why you’ve been chosen. They should explain the following:
- what your options are
- how much you’re likely to receive
- how long your notice period is
- what the next steps are.

What your employer must do
While there may be justified reasons for making you redundant, your employer must follow procedures as set out by employment law – otherwise the dismissal may be deemed unfair. For example, if your employer is reducing staff numbers in a particular role within the business, they must:
- identify a suitable pool from which to select
- use a fair selection criteria to decide who from the pool will be made redundant
- consult with each employee meaningfully about possible alternatives to redundancy
- consult with trade unions and staff representatives if more than 20 redundancies are being contemplated.

Alternative roles
If you don’t want to leave the organisation, you can ask if there are other positions available. If there are suitable roles, your employer can’t stop you from applying.
Your employer may offer you an alternative position if your job is no longer required by the company. You do not need to accept this role if you feel it is unsuitable in terms of job title, description, duties and pay. If you refuse the alternative offer of employment because it isn’t suitable, you are still entitled to the same redundancy package.

Your redundancy package
You’re within your rights to negotiate your redundancy package, regardless of how much is offered. You can also request extra information and take a representative with you to your consultation.

The agreement
Once you have agreed to your package, your employer will lay out what the next steps are. This could mean you leaving that day if that’s what’s agreed. As part of the agreement, your employer should also make it clear when you will receive your redundancy pay package. Even after this is agreed, you’re still within your rights to ask for more information.

If you think you’ve been unfairly dismissed
In the first instance, it’s important to talk to your employer, as they can explain the situation and are required to help you through the redundancy process. If you’re a member of a trade union, it can be worth speaking to your representative too. See page 13 for more information.
When can I not be made redundant?

Certain situations mean that dismissal is automatically unfair. For example, your employer can’t select you for redundancy due to:
- pregnancy
- maternity, paternity or parental leave
- your role as a representative for a trade union
- working part-time or on a fixed-term contract
- your membership of a trade union
- your work as an employee representative
- reasons relating to pay and working hours, including annual leave and Working Time Regulations.

Your employer must give you a full explanation of why you have been selected for redundancy that doesn’t include these or any other reasons that are deemed unfair.

Depending on your individual circumstances, you might have a case for unfair dismissal against your employer. If you think that’s the case, gather evidence to prepare for your complaint. You can then appeal the decision, explaining your reasons to your employer in writing. Ensure you retain a copy of your letter for future reference. You may also be able to make a claim to an employment tribunal if the issue is not resolved.

For further advice on your position and whether you have a case for unfair dismissal, it can be beneficial to seek independent legal help.

What if the alternative employment offered isn’t suitable?

You may be offered alternative employment instead of redundancy, due to a change in company direction or new equipment, for example. This must be deemed ‘suitable alternative employment’ within the same company.

The suitability of the job will depend on a number of factors, including:
- similarity to your current role
- the terms on offer
- how your skills and experience relate to the job
- wage, benefits, hours, location and status – for example, moving from one managerial position to another.

You have the right to refuse alternative suitable employment. However, if you do this without a valid reason, it could mean you lose your statutory redundancy pay.

You need to be able to prove that the job is not suitable – for example, it’s too far away, the working pattern doesn’t suit your circumstances, or the wage is much lower than your current pay.

If you feel that the role wasn’t suitable and your employer disagrees, you may have the option to go to an employment tribunal.

If you’re offered alternative suitable employment, you have the right to accept the role on the basis of a four-week trial period. This can be a longer trial period if agreed beforehand, to account for any training you need.

If you decide that the role is unsuitable and you can give a good reason why, tell your employer during the trial period. This won’t affect your right to statutory redundancy pay. If you tell your employer after the trial period, you may lose your entitlement to redundancy pay.

"You have the right to accept alternative employment on the basis of a four-week trial period."
Some situations mean that you won’t be eligible for statutory redundancy pay. These include if you refuse suitable alternative work without a valid reason and if your employer offers to keep you on. Certain jobs will also mean that you’re not entitled statutory redundancy pay. These include members of the armed forces and those in the police services.

It’s worth noting that statutory redundancy pay tends to be a minimum and many employers will offer you more, so make sure you discuss redundancy pay in the negotiations during your consultation. You’re entitled to more.

Whether you’re offered more money or not, you’re still entitled to any holiday pay or bonuses. These types of payments will be subject to tax; however, the rest of your redundancy package, whether statutory or extra, will not be taxed up to £30,000.
When will I be paid my redundancy package?

Normally, you will be paid your redundancy package on the last day of your notice period, a few days later, or on what would have been your next payday. Your employer should make it clear when you can expect the payment.

If you’re being paid in lieu of notice, you will either receive your redundancy pay in a lump sum or split into your usual pay packets. Again, it’s worth confirming with your employer how you will be paid.

In the event that your employer does not pay you within the agreed time, you should write to them asking for payment. If they still don’t pay, you can consider taking your case to an employment tribunal, which you will need to do within six months or you could lose your right to redundancy pay altogether.

If the reason for your redundancy is that the company is closing down or becoming insolvent, you may be able to claim your statutory redundancy pay from the government, or make a claim through the insolvency practitioner.

“It’s worth confirming how you will be paid with your employer.”

Who can I talk to if I have questions about my redundancy?

As with all issues surrounding employment law, every case is different. For tailored legal advice for your particular circumstances, Which? Legal can help. Our expert team offers individual, jargon-free legal advice on everything to do with redundancy, from whether your redundancy might be unfair to how long your notice period should be.

“Our expert team offers individual, jargon-free legal advice on everything to do with redundancy.”

Tip

It’s best to seek advice promptly as there are strict time limits in which to make a claim in an employment tribunal - for unfair dismissal you have to make the claim within three months.

Meet the Which? Legal team

Espe Fuentes

Espe is a solicitor and joined Which? Legal in July 2006. She advises on all aspects of consumer law as well as employment, holiday and travel, tenancy, parking violations and neighbour disputes. Her previous experience ranges from commercial law to criminal law and she enjoys advising our members on the legal issues that affect their everyday lives.

Sarah Ben-Tarifite

Sarah is a practising solicitor who qualified in January 2013 and joined Which? Legal in February 2015. She advises on all aspects of consumer law, employment law, and wills and probate. Sarah is currently studying to become a full member of the Society of Trust and Estate Practitioners (STEP).

Louise Wilkinson

Louise is an experienced employment specialist. She joined Which? Legal in 2007 and brought with her the benefit of over 10 years’ experience working for a variety of organisations. Her knowledge and understanding enables her to give members both legal and practical advice on employment issues and disputes, as well as wills and probate matters.