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 a little easier. Redundancy is a complex subject, so while this guide covers general information on your rights, it’s always worth getting advice on your specific 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 which.co.uk/redundancy to find out what we can do for you.

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What is redundancy?

Redundancy is a form of dismissal from your employment that is usually linked to your specific role no longer being necessary. For example, you may be made redundant because your employer is reducing the number of people in the workforce, a job or jobs are now obsolete, or the company is in financial difficulty and has to make essential cuts.

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 they intend to hire someone to do your exact job once you’ve left. Doing so can trigger a claim for unfair dismissal. In order for a redundancy to be fair, your employer should be able to prove that your role 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 for departure.
What exactly is the redundancy process?

**The first steps**
Your employer must first notify their staff 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 within the company. Your employer should also tell you how people will be selected (see compulsory and voluntary redundancy, opposite), 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 your role has been chosen. They should explain the following:
- what your options are
- how much money 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 justifiable 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 they must:
- identify a suitable pool of staff members to consider for redundancy
- use a fair selection criteria to decide who from this pool will be made redundant
- consult with each employee meaningfully about possible alternatives to redundancy
- offer a consultation period for 30 days if over 20 employees are impacted, and 45 days if over 100 employees are impacted
- offer consultations with a trade union rep and staff representatives

Failure to comply with employment law means a claim can be made against the company and may result in an employment tribunal finding the dismissal to be unfair. If this is the case, normally you would be awarded damages.

**Alternative roles**
If you don’t want to leave the organisation, you can ask if there are any other positions available (see opposite). If there are suitable roles, your employer can’t stop you applying.

Your employer may offer you an alternative position if your current job is no longer needed in the company. You do not have to accept this role if you feel it is unsuitable in terms of job title, description, duties and pay. If you refuse this 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 initially. You can also request extra information and take a representative with you to your consultation.

The agreement
Once you have agreed your package, your employer will lay out the next steps. This could mean you leave work 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 reaching an agreement, you’re still entitled to ask for more information.

Compulsory and voluntary redundancy

You may be offered an alternative position instead of terminating your employment. Whether a new role is a suitable alternative for you depends on:
- how similar the work is to your current job
- the terms of the job being offered
- the relevance of your skills, abilities and circumstances in relation to the job
- the pay (including benefits), status, hours and location.

You have the right to a four-week trial period to assess any alternative employment you are offered. If the role isn’t suitable, you need to be able to prove this – for example, it’s too far away, the working pattern doesn’t suit your circumstances or the salary is much lower than your current pay.

If you unreasonably refuse a suitable alternative, you may lose your right to a statutory redundancy payment.

Suitable alternative employment

You may be selected for compulsory redundancy. Sometimes, an employer will ask its staff if they want to volunteer for redundancy in an attempt to avoid or reduce the number of compulsory redundancies it may need to make. If you are offered the opportunity to apply for voluntary redundancy, you may not necessarily be selected for it – particularly if your role is still needed.

**How long should my notice period be?**
If you are made redundant, at the very least you are entitled to statutory minimum. This is:
- one week’s notice if you have been employed continuously for one month or more, but for less than two years;
- two weeks’ notice if you have been employed continuously for two years, and one additional week’s notice for each further complete year of continuous employment up to 12 weeks.

Check your employment contract, though, as your employer may have specified a longer notice period than this.
You may be offered payment in lieu of notice. This is when your employer asks you to leave the company quickly, but pays you in full for your notice period. You will normally only receive the basic pay you would have received during your notice period.

You may get a payment in lieu of accrued, but untaken holiday, and other extras such as pension contributions or private healthcare insurance if your contract states that these should be paid in such circumstances.

You will also be entitled to statutory redundancy pay if you have worked for your employer for two years or more.

Visit [gov.uk/calculate-your-redundancy-pay](https://www.gov.uk/calculate-your-redundancy-pay) to calculate your statutory redundancy pay.

**When should I receive the payments?**

Normally, an employer will pay a statutory redundancy payment on or shortly after the date of dismissal, together with any other payments that are due on termination, such as accrued salary or any payment in lieu of notice. If your employer does not pay your statutory redundancy payment within the agreed time, you have a period of six months from the date you are made redundant during which you can bring a claim for a statutory redundancy payment.

**Unfair dismissal**

Dismissal, and the process leading up to it, is hard to deal with. In certain circumstances, your selection for dismissal on grounds of redundancy will be automatically unfair (for example, selecting you for a reason connected with sex, race, pregnancy, taking part in industrial action, or because you are a ‘whistleblower’).

While there may be justifiable reasons for making you redundant, your employer should follow a fair procedure before dismissing you (see page 4 for the steps they must follow). If they do not, and you have two or more years’ qualifying service, you may be able to pursue a claim for unfair dismissal. You may also have the right to claim discrimination under the Equality Act 2010 or a breach of contract.

An employer must comply with the Acas Code of Practice on Disciplinary and Grievance Procedures in any claim ([acas.org.uk](http://acas.org.uk)), and if they fail to do so, this could also result in an uplift of up to 25% on any compensation you are awarded.

If you feel that you have been unfairly dismissed, it’s important to talk to your employer first, as they can explain your personal situation. They are also required to help you through the redundancy process.

If you believe you have been unfairly dismissed through redundancy, it is best to seek advice promptly, as there are strict time limits in which to make a claim to an employment tribunal. If you are a member of a trade union, it can be worth speaking to your representative, or seek guidance through Which? Legal ([which.co.uk/redundancy](https://www.which.co.uk/redundancy)) or contact Citizens Advice ([citizensadvice.org.uk](http://citizensadvice.org.uk)). You must pursue an unfair dismissal claim within three months minus one day from the date on which your employment ended.
If you are intending to submit a claim at a tribunal regarding your redundancy, you should first engage in Acas Early Conciliation (acas.org.uk/early-conciliation). Acas will talk to you and your employer to try to help you resolve the dispute and come to an agreement so that you don’t have to go to a tribunal.

You have six months to lodge a claim for unpaid statutory redundancy pay, and if you are struggling to get this payment from your employers you can contact our specialist Employment Solicitors to discuss your situation in more detail. They can talk you through your options and any steps you might take to help to resolve matters to your satisfaction. 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.

Whether you’re in dispute with your employer or need help negotiating a redundancy, we can arm you with all the information you need to help to take control of the situation. Visit which.co.uk/redundancy to find out more about our service.

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

**Tailored Advice**

Our legal advisers can give you one-to-one, tailored advice on the phone if you’re facing redundancy. Our advisers specialise in redundancy law and can talk you through your options. Call 0117 405 5728.

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**Meet the Which? Legal advisers**

**Duncan Snook**

Duncan joined Which? Legal as an employment law specialist in May 2018. He has over 10 years of experience as an employment solicitor in private practice, advising employees and employers on a wide range of issues. During this time, Duncan has provided pro bono advice to members of the public through the Manchester Employment Rights Advice Line and (more recently) the Avon and Bristol Law Centre. He is also a member of the Employment Lawyers Association (ELA).

Duncan advises our members on employment issues or its termination, sp they can make their own informed decisions to resolve their disputes as effectively as possible.

**Brendan Donohue**

Brendan has over 15 years of experience advising on all aspects of employment law. Having previously worked in private practice, also advising employers, he is able to draw on his insight from both perspectives when helping Which? Legal members tackle their issues.

Bringing his clear and pragmatic approach to every situation, Brendan guides members through their options including, where appropriate, exit strategies. Where the employment relationship has ended, or is coming to an end, Brendan can help achieve the appropriate terms of departure through our settlement agreement service. Brendan is a member of the Employment Lawyers Association and joined Which? Legal in 2018.

**WHICH? LEGAL**

If you need affordable, clear advice on employment issues, contact Which? Legal. We can also help with a range of queries, from redundancy, wills and probate to consumer advice on goods or services you’ve purchased. Visit which.co.uk/redundancy to find out more.