

Your Legal Questions

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Q I am the owner of a medium sized business. The recession has seen a significant downturn in work and I have to make redundancies. How do I achieve this without leaving myself open to large compensation claims?

A Before making redundancies consider temporarily laying off staff, if your contracts allow this, or changing to a shorter working week, this usually needs workforce consent. If your contracts contain a mobility clause this may enable you to ask employees to move to a different location. Some staff may be willing to take voluntary redundancy. Check if you have any employees with less than one year's service, they have neither a right to a redundancy payment nor usually any right to claim unfair dismissal.

If redundancies are inevitable then fairness is the watchword. No employee likes being made redundant but most will accept it if the procedure is explained and fairly applied to everyone. The key stages of the process are: Notification – the initial announcement and letter advising of the proposed redundancies; Consultation – meeting with each employee to explain the process and their likely compensation if selected; Selection – each employee is scored against a set of criteria; Alternative Employment – advising those selected about any alternative jobs within the business.

Potential traps for employers are: using selection criteria which are vague and cannot be objectively measured or which may indirectly discriminate e.g. on grounds of sex or disability; failing to comply with the procedural requirements; trying to disguise as a redundancy a dismissal for other reasons e.g. pregnancy or illness; not genuinely considering employees for alternative vacancies.

If a redundancy is mishandled resulting in a successful unfair dismissal claim the maximum compensation is £72,900. The maximum for discrimination claims is unlimited. It makes sense to get good legal advice.

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