



EMPLOYEE Q&A

An employer must have an 'express' or 'implied' contractual right to lay off an employee or put him/her on short term working (for details see Acas advice leaflet Lay offs and short-time working). If an employer does either of these without it being a contractual right, it may be a breach of contract.

What is redundancy pay and how do I work out what I'm entitled to?

You have the right to a lump sum 'redundancy payment' if you are dismissed because of redundancy. The amount is related to your age, length of continuous service with the employer, and weekly pay up to a maximum. The employer must also provide you with a written statement showing how the payment has been calculated at or before the time it is paid.

Any dispute about whether a redundancy payment is due, or about its size, can be determined by an employment tribunal. If your employer's cash-flow problems are so serious that making the redundancy payment would put the future of the business at serious risk, the Redundancy Payments Service (RPS) can arrange to pay you directly from the National Insurance Fund. If your employer is insolvent, the RPS makes the payment and the debt is recovered from the assets of the business.

How much notice are employees entitled to?

The employer must give at least one week's notice for each full year of continuous employment up to 12 weeks: for example if an employee has worked for 5 full years then they would be entitled to 5 weeks notice. However the contractual notice is more than the statutory then the employer should give the greater amount.

How should my employer be selecting employees for redundancy?

Your employer should ensure that employees are not selected unfairly and must use objective criteria when making a decision. You also have a right of appeal if the selecting process has been unfair.

Various criteria should be used to make a decision:

- attendance record (if this is fully accurate and reasons for and extent of absence are known)
- disciplinary record (if this is fully accurate)
- skills or experience
- standard of work performance
- aptitude for work
- Formal qualifications and advanced skills should be considered, but not in isolation.

When are redundancies 'unfair'?

You will be found to have been unfairly dismissed if you were unfairly selected for redundancy:

- for asserting a statutory employment right
- on parental leave (see Working parents) or maternity-related grounds
- because you work part-time (Part-time work)
- because you are a fixed-term worker (Employment contracts)
- for exercising or seeking to exercise the right to be accompanied at a disciplinary (Discipline) or grievance hearing (Grievances)
- requesting flexible working arrangements
- for a reason relating to rights under the Working Time Regulations 1998
- for a reason relating to rights under the National Minimum Wage Act 1998
- for a reason relating to the Tax Credits Act 2002
- for Whistle-blowing
- for participation in trade union activities, for membership or non-membership of a trade union and in respect of trade union recognition or derecognition
- for carrying out duties as an employee representative or candidate for election for purposes of consultation on redundancies or business transfers
- for taking part in an election of an employee representative for collective redundancy purposes
- for taking action on health and safety grounds as a designated or recognised health and safety representative, or as an employee in particular circumstances
- for taking part (or proposing to take part) in consultation on specified health and safety matters or taking part in elections for representatives of employee safety
- for taking lawfully organised industrial action lasting eight weeks or less (or more than eight weeks in certain circumstances)
- for refusing or proposing to refuse to do shop work or betting work on Sundays (England and Wales only)
- for performing or proposing to perform the duties of a occupational pension scheme trustee
- for performing or proposing to perform the duties of a workforce representative for the purposes of the Transnational Information and Consultation of Employees Regulations 1999

Should my employer help me to find other work?

In addition to allowing time off to look for new work or for training (Time off), it's good practice for employers to give redundant employees as much information as possible to help them at this difficult period of their working lives. Such information may include:

- how they may be affected financially (redundancy pay, pension payments and state benefits)
- how to complete application forms and present themselves at job interviews



- the importance of discussing the implications of redundancy with their family as early as possible
- how to search for appropriate vacancies in the press and follow up opportunities
- the importance of being prepared to consider a wide range of alternative jobs
- individual counselling where appropriate, ideally before redundancies take effect.

What information must my employer disclose about proposed redundancies?

To ensure employee representatives can play a useful part in the consultation process over proposed redundancies your employer must disclose certain information in writing including:

- why redundancies are taking place
- how many, and what types of employees it may effect
- what kind of procedures will be used to select employees for dismissal
- how dismissals will be carried out and the timeframe
- how redundancy payments, other than the legal minimum, will be calculated