

# Your rights during redundancy

You have redundancy rights if:

- you're legally classed as an employee
- you've worked continuously for your employer for 2 years before they make you redundant

During the coronavirus (COVID-19) pandemic, you have the same redundancy rights, including redundancy pay.

## 1. Redundancy pay

How much redundancy pay you get depends on:

- your age
- how long you've worked for your employer

You might get more than the minimum amount the law says you should get ('statutory'), if it's in your contract.

If you're not sure if you're classed as an employee, it's a good idea to [check your employment status](#) and talk to your employer.

### If your employer is insolvent

If your employer is insolvent and makes you redundant, you can apply for redundancy pay and may be entitled to other related payments from the government, through the Redundancy Payments Service (RPS).

[Find out more about your rights if your employer is insolvent on GOV.UK.](#)

## How redundancy pay is worked out

Redundancy pay is based on:

- your earnings before tax (gross pay)
- the years you've worked for your employer
- your age

Weekly pay should also include:

- regular overtime, if the employee's contract says they must get paid for it
- any bonuses or commission

[Find out how to work out average pay for bonuses and commission on GOV.UK.](#)

## **If you're aged 17 to 21**

Your employer must give you half a week's pay for each full year you've worked.

## **If you're aged 22 to 40**

Your employer must give you:

- 1 week's pay for each full year you worked from age 22
- half a week's pay for each full year you worked before that

## **If you're aged 41 or over**

Your employer must give you:

- 1.5 week's pay for each full year you worked from age 41
- 1 week's pay for each full year you worked when you were between 22 and 40
- half a week's pay for each year you worked when you were between 17 and 21

Your employer must tell you in writing how your redundancy pay has been worked out.

## **Furlough and redundancy pay**

If you've been on '[furlough](#)' ([temporary leave](#)) during the coronavirus (COVID-19) pandemic, you must use your full normal pay when working out redundancy pay.

For example, if your weekly pay is usually £300 but you received 80% pay while on furlough, your redundancy pay must be your full normal pay of £300 a week.

If your pay is different each week, your weekly pay must be worked out by using the 12 weeks leading up to the day you got your redundancy notice. Your pay must be topped up to 100% for any hours you were furloughed. Add up the total amount of pay during the 12 weeks and divide it by 12 to get your weekly pay.

### **Example 1 – someone who works variable hours**

An employee who is 30 has worked for their employer for 6 years and their hours vary each month. They normally get paid £10 an hour.

They've been on furlough for the last 12 weeks and received 80% of their pay (£8 an hour).

The employer already worked out the employee works an average of 30 hours a week when they claimed from HMRC's Coronavirus Job Retention Scheme.

The employee must receive £300 a week redundancy pay as their wages must be topped up to 100%.

### **Example 2 – someone on flexible furlough**

An employee who is 30 has worked for their employer for 6 years.

They normally work 30 hours a week and have agreed to be furloughed for half this time.

They now work for 15 hours a week on full pay, receiving £10 an hour. They're put on flexible furlough on 80% pay for the remaining 15 hours, receiving £8 an hour.

When calculating redundancy pay, their wage on flexible furlough must be topped up to 100%. This means they must receive £300 a week redundancy pay.

### **Example 3 – someone who has returned to work and is working more hours than usual**

An employee who is 30 has worked for their employer for 6 years.

The employer had already worked out the employee's average hours and full normal pay when they claimed from HMRC's Coronavirus Job Retention Scheme. The employee normally works 30 hours a week on £10 an hour, receiving £300 a week.

They spent 6 weeks on furlough earning 80% pay. When they returned to work, they worked 40 hours a week for 6 weeks, receiving £400 a week.

To work out their weekly pay, the employer adds up the 6 weeks of pay during furlough, at their full normal pay of £300 a week. Then they add up the 6 weeks the employee worked at £400 a week.

The employer adds up these figures and divides by 12 to work out their average weekly pay of £350 a week. This means the employer must pay the employee £350 redundancy pay a week.

## **Calculate your redundancy pay**

You can use the [redundancy pay calculator on GOV.UK](#).

You'll need to know your weekly pay (before tax and other deductions) to use the calculator.

## **How you'll get paid**

Your employer should tell you:

- when you'll get your redundancy pay – this should be no later than your final pay date, unless you both agree another date in writing
- how you'll get paid, for example in your monthly pay or separate payments

Up to £30,000 of redundancy pay is tax free.

You may not be eligible for statutory redundancy pay if your employer offers you a [suitable alternative job](#) and you turn it down.

## **Limits on redundancy pay**

There are limits to how much redundancy pay you can get. You can only get it for up to 20 years of work.

This means, for example, that if you've worked for your employer for 22 years you'll only get redundancy pay for 20 of those years.

The maximum weekly amount used to calculate redundancy pay is £538 – even if your wage is more per week.

The maximum statutory redundancy pay you can get in total is £16,140.

You have to claim for any unpaid redundancy within 6 months of your job ending.

## If your employer does not pay you

If you do not get your redundancy pay you need to:

1. Write to your employer as soon as you can. The date you should get your redundancy pay should be no later than your final pay date, unless you and your employer agree another date in writing.
2. Tell them what you're entitled to and include any evidence to back it up. For example, you could include a letter that states your first day at work or an email confirming a recent pay increase.

[Call the Acas helpline](#) if you still do not get paid after writing to your employer. We can talk through your options but cannot give you [legal advice](#).

If you've tried all options without success, you might be able to [make a claim to an employment tribunal](#).

If you're an employee being made redundant, by law your employer must:

- tell you a minimum amount of time in advance (give notice)
- keep paying you until you leave your job
- give [redundancy pay, if you have the right to it](#)

Your employer should put the details of your redundancy in writing.

You'll usually carry on working until the end of your notice. How much notice you get depends on how long you've worked for the employer.

During the coronavirus pandemic, you still have the same employment rights, including notice of redundancy.

## 2. How much redundancy notice you get

How much notice your employer must give depends on how long you've been working for them.

You're entitled to statutory notice if you've been working for your employer for more than a month. Your employer can give you more than the statutory notice, but they cannot give you less.

If you've worked for your employer for:

- 1 month to 2 years –? the minimum notice is 1 week
- 2 to 12 years –? the minimum notice is 1 week for each year you've worked
- 12 years or more –? the minimum notice is 12 weeks

## When the notice period starts

It's a good idea to check your contract as it might say when a redundancy notice period starts.

If your employer gives you redundancy notice in person, your notice period should start from the next day.

If you're given the notice by email or post, your notice period should start when you've had time to read it.

For example, if you're told in a letter sent by registered post, your notice might start the day after you've received it so you've had time to read it.

## Pay during your notice period

You're entitled to the same pay you'd normally get if you work your notice period.

### If you're off work

Depending on your employer's notice period, you might not be entitled to full pay during your notice period if you're:

- on holiday (annual leave)
- on sick leave
- on maternity, paternity or adoption leave
- temporarily laid off or on short-time working

You're entitled to full pay if either:

- your employer's notice period is the legal minimum
- your employer's notice period is 1 to 6 days longer than the legal minimum

You're not entitled to full pay if:

- your employer's notice period is 1 or more weeks longer than the legal minimum

Check your contract or talk to your employer to find out how much you'll be paid.

## Payment in lieu of notice

Your employer can give you 'payment in lieu of notice' (or PILON) if it's in your contract. This means you get paid instead of working your redundancy notice period.

If you get payment in lieu you should get full pay and any extras that are in your contract, for example pension contributions.

Your employer can offer you payment in lieu of notice even if it is not in your contract. If you accept you should get full pay and

anything else included in your contract.

## Leaving during your notice period

You can ask your employer if you can leave before your notice period ends, for example if you have another job to go to.

You must get their agreement – if not they may consider that you've resigned and you could lose your eligibility for redundancy pay. Make sure you get the agreement in writing.

If they agree you can leave early your employer does not have to pay you for the rest of your notice period. You still get the same redundancy pay.

## Garden leave

If your employer says you do not have to be at work (known as 'garden leave') you must get paid as usual during your notice period.

They can ask you to take any unused holiday during your garden leave.

## If you're still not sure

It's a good idea to talk with your employer if there's any part of your redundancy notice you're not sure about.

For example, if you've not received the details of your notice in writing, you could ask your employer to put in writing:

- the length of your notice period
- the date your notice period starts
- if you can leave before the end of your notice period
- if you need to take any unused holiday before you leave
- if you'll still get contractual benefits, for example a fuel card or mobile phone, during your notice period

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If you're an employee affected by redundancies, by law your employer must consult you. This is even if you're not at risk of redundancy yourself.

You'll usually have a face-to-face meeting with your manager or the person leading the redundancy changes. The meeting can take place over the phone if you both agree to it and there is a clear need, for example if you work remotely.

By law they must meet you at least once. They might need to meet you more than once to make sure they can respond to your suggestions or requests.

During coronavirus, it's likely that your employer will consult with you remotely, for example over the phone or using video or conference-calling technology.

## What to discuss at the consultation

The consultation is a chance for your employer to talk about the changes they're planning and why you're at risk of redundancy.

You could discuss:

- ways to avoid or reduce redundancies
- how people will be selected for redundancy
- any issues you have with the process
- time off to look for a new job or training
- how the business or organisation can restructure or plan for the future

## What your employer must do

Your employer does not have to make the changes you suggest. They do need to show that they've listened to you, considered your ideas and tried to come to an agreement.

You can [appeal against redundancy](#) if you believe your employer has not consulted you fairly.

## 3. Large-scale redundancies

If your employer is making more than 20 people redundant within 90 days in a single establishment it's known as a 'collective redundancy'. There are [set rules for collective redundancies](#) which your employer must follow.

They must consult staff representatives – for example trade unions – as well as speak to you individually.

During the consultation they must let you know in writing:

- why they need to make redundancies
- which jobs are at risk
- the number of people who could be involved
- how they will select employees for redundancy
- how they plan to carry out redundancies
- how they will calculate redundancy pay
- details of any agency workers they're using

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[/your-rights-during-redundancy/appeal-a-redundancy-decision](#)

[How employers must consult staff on redundancies](#)

[Podcast – redundancy and your rights](#)

Instead of being made redundant, you might be able to take another job with your employer if you have [redundancy rights](#) ('suitable alternative employment').

If a suitable job comes up in your company or organisation, your employer must offer it to you rather than make you redundant. You do not have to take the job if you do not think it's suitable.

Whether a job is suitable usually depends on:

- how much you'll be paid and what benefits you'll get, for example pension

- where the job is – it may be further for you to travel
- how similar the role is to your current job
- what terms you're being offered
- your skills and abilities in relation to the job

## 4. When you should get a job offer

The offer of another job should come before your current job ends. The new job should also start within 4 weeks of your current job ending.

If not, you'll still qualify as redundant and should get redundancy pay.

### Trial period

You have the right to a 4-week trial period in an alternative job. This should start after you've worked your notice period and your existing contract has ended. This avoids any confusion or disputes if the trial does not work out.

It's a good idea to get the dates for the trial period in writing. If you need longer to train for a job, get your employer's agreement in writing with a clear end date.

If your employer offers you more than one job, you can try each for 4 weeks.

### Turning down the job

If you both agree it's not working out during the trial period, you can still get redundancy pay.

You need to tell your employer in writing during the trial period if you think the job is not suitable. If you do not, you could lose your right to redundancy pay.

You need to have a good reason why it's not suitable, for example:

- the job is on lower pay
- health issues stop you from doing the job
- you have difficulty getting there, for example because of a longer journey, higher cost or lack of public transport
- it would cause disruption to your family life

Your contract could say you have to work anywhere your employer asks you to (a 'mobility clause'). This could mean turning down a job because of its location could risk your right to redundancy pay.

#### **If your employer does not accept your reasons**

If your employer does not accept your reasons for turning down the job, they could refuse to pay your redundancy pay.

[Have an informal chat with your employer](#) and ask them why they do not accept your reasons. Explain why you think the job is not suitable.

If they still do not accept your reasons, [call the Acas helpline](#) and we'll talk through your options.

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If you're an employee, you can only be made redundant if the job you're doing is no longer needed.

This can happen if your employer is planning to:

- change what the business does
- change location
- change how they work, for example use new machinery or technology
- close part or all of the business

It's not a redundancy if you're dismissed for another reason, for example because your employer is not happy with your performance or conduct.

## 5. How you're selected

Your employer may put you in a 'selection pool' to make sure you're selected in a fair way. A selection pool is a way of grouping employees who are at risk of redundancy.

Your employer may use agreed criteria to choose who to make redundant from the selection pool.

They cannot select you or use criteria that discriminates against you based on:

- age
- disability
- gender reassignment
- marriage or civil partnership status
- pregnancy or maternity leave – [download the Acas guide to redundancy for employees who are pregnant or on maternity leave](#) (PDF, 298KB, 13 pages)
- race
- religion or belief
- sex
- sexual orientation
- family related leave – for example parental, paternity or adoption leave
- role as an employee or trade union representative
- membership of a trade union
- a part-time or fixed-term contract
- [working time regulations](#) – for example if you've raised concerns about holiday entitlement or rest breaks
- concerns you've raised about not being paid the [National Minimum Wage](#)
- concerns you've raised about [whistleblowing](#)

Your employer must not use criteria that indirectly discriminates against you.

For example if they use flexible working as a criteria they could be discriminating against women. They would need to show that flexible working is no longer possible after the business has changed.

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As an employee, you can appeal against being made redundant if you believe you were unfairly selected or your employer did not

follow a fair redundancy process.

## Appeal to your employer

You should talk to your employer first and check if they have an appeals process. If they do not, you can write to them explaining why you think the redundancy is unfair.

You can get help from staff representatives such as trade unions who can attend any meetings your employer might set up. You can also ask for a senior member of staff who was not involved in the selection process to come to meetings.

## What your employer can do

Your employer needs to tell you if they accept or reject your appeal. They need to confirm this in writing.

### If they accept your appeal

If you're still on your notice period they can offer you your job back. This means your employment contract will be the same as before you were selected for redundancy.

If you've finished your notice period they can put you back on your previous employment contract. They should consider you as having worked continuously from the date they originally hired you. You must be paid for the time you were not at work.

You'll need to pay back any redundancy pay.

### If they reject your appeal

If you're due redundancy notice and pay these will continue as planned.

## Make a claim to an employment tribunal

If you still believe your redundancy is unfair you can make a claim to an [employment tribunal](#).

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