

# Redundancy

## (Lecture B1203 – 14.05 minutes)

With the phasing out of the job retention scheme from 1 July 2020, employers will need to assess their post lockdown staffing requirements and many redundancies are expected.

When employers are considering 20 or more redundancies they will need to follow a collective consultation process. As part of this process they must notify the Redundancy Payment Service (RPS) via Form HR1 before a consultation starts. This process must start no later than 30 days before first redundancy if 20 – 99 proposed redundancies or 45 days before first redundancy if 100 or more redundancies. There are unlimited fines for failure to notify the RPS.

There is no requirement to notify RPS if < 20 proposed redundancies.

Legal advice should be taken when considering redundancy and the lawyers will be able to advise on the consultation process. As an outline, the employer will need to consult with Union representatives or elected staff representatives or directly with staff if neither present. The employer would need to provide them with the required redundancy information in writing eg reasons, numbers, selection plans, dates etc. The employer must respond to questions on a timely basis and then issue notifications of redundancies when conclusions have been reached.

The business must make a decision as to who to make redundant but the decision must be fair so as to avoid unfair dismissal claims. Fair selection policies could include:

- Skills, qualifications and aptitude;
- Standard of work and/or performance;
- Attendance;
- Disciplinary record.

Employers must give their staff due notice of their redundancy. This would normally be the longer of their contractual notice period and the statutory notice period. The statutory notice period is at least a week if employed for up to two years or if over two years a week for each year of employment up to a maximum of 12 weeks.

Employers may not be in a position to recall furloughed employees so many may start the consultation procedure during furlough. Where notice is given in the furlough period the government should continue to cover 80% of the furloughed pay but the employer must top up to 100% as the employee is entitled to their full pay during their notice period. The grant will not cover any PILONs, accrued holiday pay or statutory redundancy payments.

To be eligible for statutory redundancy pay an individual must:

- Be an employee with a contract of employment;
- Have at least 2 years continuous service;
- Have been dismissed, laid off or put on short term working.

The statutory redundancy pay rates are based on complete years of employment counting back from the date of dismissal.

- Half a week's pay for each full year of employment up to their 22<sup>nd</sup> birthday;
- A week's pay for each full year of employment after their 22<sup>nd</sup> birthday;
- 1.5 weeks' pay for each full year of employment after their 41<sup>st</sup> birthday.

The length of service is capped at 20 years and the weekly pay is capped at £538 (£560 in Northern Ireland). Employers can pay more if they wish.

Employees do not pay tax on their first £30,000 of redundancy pay. And they do not pay national insurance on any redundancy pay. Employers pay national insurance on redundancy pay > £30,000.

PILONs and accrued holiday pay are taxable and subject to NIC.

The statutory redundancy payments might make some employers insolvent and in this instance they should contact the Insolvency Service's Redundancy Payments Service. Loans are available where the employer is a viable concern.

Where employers are insolvent and unable to continue trading, employees can claim their notice pay, accrued holiday and statutory redundancy pay from the government.