

Redundancy - a summary



An employee may only be dismissed by reason of redundancy if a genuine redundancy situation exists.

A genuine redundancy situation exists in 3 circumstances as set out in section 139 of the Employment Rights Act 1996:

- 1) The employer's business as a whole has closed down (e.g. where the business has gone into liquidation)
- 2) The employee's actual work place has closed down (e.g. the closure of a factory where the employee works)
- 3) The employer has decided to reduce the size of the workforce as there is no longer the need for the employer to employ people to do work of a particular kind (e.g. an employer starts using machines for packing goods so a factory becomes mostly automated, thereby reducing the need for employees to carry out the packing work).

If an employee can show that they were dismissed for any of these redundancy reasons then they may be eligible for a statutory redundancy payment or, possibly, a contractual redundancy payment.

Length of service

Employees are eligible for a statutory redundancy payment if they have 2 or more years of service with the employer since the age of 18.

Amount of redundancy payment

An employee is entitled to:

- 1) For every complete year of service aged 41 and over – 1 and a half weeks' gross pay
- 2) For every complete year of service aged 22 to 40 – 1 week's gross pay
- 3) For every complete year of service up to age 21 – half a week's gross pay

There is a limit on the amount of a basic week's pay. The current limit (as of April 2017) is £489 per week. The maximum service that can count is 20 years.

An employee can lose their right to a redundancy payment in the following circumstances:

- 1) Where the employee is offered suitable alternative employment and unreasonably refuses it
- 2) Where the employee is dismissed for gross misconduct during the redundancy notice period
- 3) Where the employee resigns before the end of the notice period

A contractual redundancy payment depends on the terms of the employee's contract. There is no automatic right to an enhanced redundancy payment.

What to do if your employer does not pay?

An employee has 3 months (less one day) to bring a claim in the Employment Tribunals for an employer's failure to pay a contractual redundancy payment and 6 months (less one day) to bring a claim in the Employment Tribunals for an employer's failure to pay a statutory redundancy payment.

The limitation period runs from the date the employee's employment is terminated.

If a contractual redundancy payment is more than £25,000 then the claim should generally be brought in Courts where the time limit is 6 years.

Tribunals can either increase or reduce an award by 25% if they think that the employer or employee has unreasonably failed to follow the ACAS Code of Practice. The ACAS Code of Practice can be found on the ACAS website - www.acas.org.uk

Large redundancies and a protective award

When 20 or more employees are to be made redundant, employers are under a statutory duty to collectively inform and consult with the representatives of affected employees (such as elected representatives or recognised Trade Unions).

Where employers have breached this duty, a claim can be brought in the Employment Tribunals. If the Employment Tribunal is satisfied that there has been a breach of the consultation requirements, they can make an order for a Protective Award, which may consist of compensation of up to a maximum of 90 days' gross pay in a redundancy situation for each affected employee.

There is no minimum amount of time employees must be employed to be able to bring Protective Award claims. The claims must, however, be commenced within 3 months (less 1 day) from the date of dismissal. Why use us? Morrish Solicitors LLP has vast experience in bringing multiple Protective Award claims for employees from across the UK, having brought these types of claims for many years, winning and securing full protective awards for thousands of employees. For example, we have successfully represented employees in claims against Phones4u, Austin Reed, City Link, Bezier, Oakworth Joinery, 2e2, Jarvis, 4Children and Aqua Interiors, to name but a few. We are currently pursuing many claims against other employers.

We can carry out a free review of a potential protective award for free and if you have a viable claim, we could act for you on a 'no win, no fee' basis. If we did, we would bring your claim to an end as soon as possible, providing regular communications and assisting you throughout.

This Fact Sheet is for information only and is not intended to be a substitute for legal advice.

For further information on redundancy and other Employment Rights, please call our Employment Rights team on 033 3344 9603 or email info@morrishsolitors.com