

Top 10 tips for surviving redundancy



Sadly, redundancies are a fact of life in the modern workplace. This factsheet aims to give you the 10 best tips on how to survive redundancy - either by convincing your employer to keep you on or, if your job is to be made redundant, to help get you the best severance terms.

1. If redundancies are on the cards, your employer must warn and consult you beforehand. Typically, this means they need to speak to you individually, explain what is happening and outline the reasons for redundancy, such as a fall in sales, and discuss it with you 'meaningfully'. Use this chance to explain how savings can be made elsewhere without job cuts, point out to them how important you are and how your job is crucial to them. They are under a duty to consider this and respond to you. This is an opportunity to get them to change their mind.
2. If you are a Union member, get your Union's help and representation at meetings. A skilled Union representative can give you an 'edge' and will support you in arguing for your job to be saved.
3. Your employer cannot lawfully just choose who should stay and who should go without careful thought and the application of a fair process of selection or interview process. In terms of selection, employers should look at "pooling" employees doing the same type of work. They should set objective non-discriminatory selection criteria (such as disciplinary record, performance, time keeping and so on) and the criteria should be fairly assessed by managers. Ask to see the criteria your employer intends to use and raise any criticisms you may have; once you've been assessed ask for your own scores, check they are fair and, if not, challenge them.
4. Always check whether your employer has a contractual redundancy policy and, if so, insist they follow it. Such a policy may entitle you to enhanced redundancy payments or require your employer to follow a detailed redundancy process.

5. If the worst happens and you are selected for redundancy but you wish to stay, ask to see all current internal vacancies and also any future vacancies that are expected. Your employer should check to see if there are any vacancies and make it possible for you to apply for them. If there are any vacancies, ask for copies of the job descriptions and written details about pay and work location as only this way will you be able to decide whether you want to apply for the vacancy.
6. What else can you do if chosen as redundant? Appeal against selection and dismissal - you have a right to attend an appeal hearing, normally before a different and more senior manager, who should reconsider matters for you. This is a chance to persuade your employer to change its decision to dismiss you.
7. Remember that if your employer offers an alternative job to you, you can lose your right to statutory redundancy pay if an Employment Tribunal thinks that the alternative job was suitable and that you unreasonably refused it. Therefore, you need to have as much information as possible about what the new job involves and assess its suitability very carefully.
8. If redundancy is inevitable, attempt to negotiate a 'severance' package. Your employer may only intend to pay the minimum statutory redundancy pay and notice. Argue for them to improve this or, if they require you to work out your notice, try to get them to pay you your notice pay in lieu or to place you on garden leave, giving you more time to look for alternative work.
9. Always check your Contract of Employment as it may contain limits on what you can do post-termination, such as preventing you from competing with your employer for a period. If so, ask your employer to drop these restrictions and if they agree, ask them to confirm it in writing.
10. If your employer is insolvent or becomes insolvent during the redundancy process, remember that some payments are guaranteed by the Government, such as statutory redundancy pay, notice pay, holiday pay and so forth (subject to a cap).

If you need any further assistance in a redundancy situation, please contact us.

Redundancy is never an easy or pleasant process. Please try to remember that it is normally the job that is redundant not the person and when it comes to finding new employment most prospective employers understand that redundancy, as a reason for dismissal, is not unusual and do not see it as a negative.

Also, remember that if an employer is considering making 20 or more employees redundant at one workplace they must first consult:

- a) with any Trade Union which is recognised for collective bargaining; or
- b) with elected representatives of the workforce (if no Trade Union is recognised)

In case b), if there are no such representatives, elections must take place and the employer must organise them. Consultation must take place “in good time” – the employer must not leave it till the last minute. If the employer fails to do this, 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 or 13 weeks’ gross pay in a transfer 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 (in a collective redundancy situations) or the date of the TUPE transfer (in TUPE transfer situations).

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 more information on redundancy and other Employment Rights, please call our Employment Rights team on 033 3344 9603.

Sign up to our monthly employment email update by emailing clair.watmore@morrishsolicitors.com