

## Handling small-scale redundancies

### A step-by-step guide

#### **Be prepared: What is redundancy?**

Redundancy is generally where an employer needs to reduce their workforce - for example, if the business is closing or certain work is no longer required.

As the owner or manager of a business, you may be worried about a downturn in trade:

- Is there enough work to keep staff busy?
- Is there sufficient income to pay wages and keep the company afloat?

Your thoughts may turn to making redundancies to reduce the number of staff you employ to cut costs. This can be a daunting prospect which will affect you and all of your employees.

If you have to make redundancies they should normally be for the following reasons:

- You have ceased (or intend to cease) carrying on the business for the purposes of which you employ someone.
- You have ceased (or intend to cease) to carry on the business in the location you employ someone.
- You don't require your employees to carry out work of a particular kind anymore.
- You don't require your employees to carry out work of a particular kind in a specific location anymore.

Redundancy can occur either where the amount of work disappears completely, or where the amount of work reduces. Redundancy can be voluntary or compulsory.

This might seem a little legalistic, but ensuring you meet legal requirements is essential if your business is changing or closing.

This guide is aimed at small firms, and larger organisations proposing to make fewer than 20 employees redundant.

For advice on proposing 20 or more redundancies, see the Acas [Advisory booklet - How to manage collective redundancies \[PDF, 801kb\]](#).

If your situation, or the cost of making redundancies, will put your business at risk of closure or administration, you may wish to contact the Redundancy Payments Service Helpline (now managed by Acas) on 0845 145 0004.

#### **Unhappy with employee performance or conduct?**

This is not a reason for redundancy. To find out how to handle this, see Acas guidance on [discipline and grievances](#).

#### **Selling or transferring your business?**

Making redundancies that are connected to the sale or transfer of your business need particularly careful handling and consideration. See the [FAQ section](#) for more information.

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#### **Be prepared: Seriously consider alternatives**

Before you start a redundancy process, consider the many alternative options you could use or combine to reduce redundancies, or even prevent them altogether.

The alternatives include:

- **Reducing or ending overtime** – but check your contracts first.
- **Stop recruiting and retrain staff** – this can often save you money and be better for morale.
- **Stop using contractors/casual staff/agency workers** - but be clear on their employment status first.
- **Offering flexible working** - employees are more productive with a better work-life balance, so offering part-time working, job shares etc can save you money and avoid redundancies. To find out more, see Acas [Advisory booklet - Flexible working and work-life balance](#).
- **Offering voluntary redundancy/early retirement** - Ask employees if they would consider these options (but don't single out individuals otherwise you could be accused of discrimination, and remember a voluntary redundancy is still a dismissal). If your most valuable members of staff volunteer, you do not have to accept their requests for redundancy.
- **Temporarily lay off employees** - this is not the same as redundancy. If you have a temporary lack of work available and you already have employee agreement (or get agreement), you can 'lay off' your staff for a period of time, usually with considerably reduced pay. To find out more, see Acas [Advice leaflet - Lay-offs and short-time working](#)
- **Temporarily place employees on short-time working** – similar in practice to lay-offs, this is where, with agreement, employees are laid off for a number of days each week, or for a number of hours during a working day. To find out more, see Acas [Advice leaflet - Lay-offs and short-time working](#).
- **Changing your staff employment contracts** - Sometimes you might not want to lose your staff, but agree new terms and conditions (such as wages, hours and duties). As a last resort, you may need to impose changes (which can mean redundancies) but there are other often simpler and better alternatives. To find out more, see Acas [Advice leaflet - Varying a contract of employment](#). Or, if you have specific questions call the Acas Helpline on 08457 47 47 47.

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#### **Be prepared: Make a plan**

Draw up a draft framework of what you are thinking of doing and in what order. If you are making/intend to make fewer than 20 people redundant, this should include:

- [Briefing your managers \(Step 1\)](#) - talking with your managers will help smooth the process and help you work out what support they need. If you are the owner and only manager, you may need help and/or training.
- [Talking to your staff \(Step 2\)](#) – you're legally required to **consult meaningfully** with your staff. This is a very specific way of discussing the situation with staff, so working out how, when and what to talk about is important. It's also useful because your staff may give you options that you hadn't previously considered.
- [Choosing redundant staff carefully \(Step 3\)](#) - if redundancy does turn out to be the way forward, you need to plan how you will fairly and consistently decide which jobs will go. You also need to plan how you will select people for redundancy from those posts.
- [Giving redundancy notice and pay \(Step 4\)](#) - this should be part of your discussions and, handled well, can be reassuring for your staff and your business planning.
- [Remembering notice period rights \(Step 5\)](#) - being mindful of special rights your redundant staff have to look for jobs or training will help you plan ahead. Also, if other jobs in your business come about, there are provisions for trial periods that could help you avoid redundancy costs.
- [Allowing for staff to appeal against their selection for redundancy \(Step 6\)](#) – this can often give you a chance to be absolutely sure you've done the right thing, and give you the opportunity to put it right if not.
- [Focussing on your businesses future \(Step 7\)](#) – it's important to remember that redundancy is meant to help you get your business back on track. You'll need to plan how the business will operate when redundant staff leave and communicate your vision for the future of the business to the staff who will be staying.

#### **Could there be more than 20 redundancies?**

If you are making (or intending to make) 20 or more employees redundant within a period of 90 days, there are extra legal requirements to follow. In these circumstances, see Acas [Advisory booklet - How to manage collective redundancies \[PDF, 801kb\]](#).

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#### **Step 1: Brief your managers**

It is in everyone's interests for you to start talking to your employees about the circumstances your business faces - but before you do that, you will need to have your managers prepared, trained, informed and ready to support you.

#### **If you're the owner and only manager...**

You are likely to manage the redundancy process on your own, unless you bring in a consultant to help. If you are on your own, make sure you are fully prepared and trained, and set aside as much time as is needed.

In particular, ensure you are confident about handling the redundancy process correctly and trained to conduct one-to-one interviews with staff at risk of losing their jobs. These one-to-ones can be emotionally draining and a psychological strain, so make sure you are prepared to handle them.

#### **If you have several managers and/or owners...**

You will need their full support. They should be involved in the process from the beginning, fully understand the business case for what you are proposing, and be kept up to date throughout so they can:

- Come up with ideas that help smooth the process and even reduce or avoid redundancies.
- Effectively talk and liaise with staff.
- Make redundancy dismissals and give notice of when staff selected for redundancy will leave.
- Help you restructure your business in the best possible way.

#### **Need some support?**

Acas can train you or your managers with courses relating to [Redundancy](#), [Handling difficult conversations](#) and employee communication and consultation. See the Acas [Training](#) page.

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#### Step 2: Talk to your staff

When you are making fewer than 20 employees redundant you are legally required to have **meaningful individual consultation** – and that's with all affected staff, not just those who may be made redundant.

Unlike larger-scale redundancies, there is no fixed period of consultation required – instead, it needs to be enough to be meaningful to your particular situation. This means it is likely you'll need more than one meeting with each employee.

These meetings are not a set of negotiations, but they are not simply about telling your employees how things are going to be, either. You (or your managers) **must** meet each employee privately, at least once, listen to them and genuinely consider their suggestions (even if you don't accept them).

Don't skip the one-to-ones by meeting with your staff as a group instead, as there is a risk any redundancies could be unfair and you may end up before an employment tribunal.

**Benefits** of meaningful individual consultation include:

- A better chance of finding alternative jobs for staff.
- Increased employee morale (they'll feel included and see they have an input into the process).
- Ideas and options can surface that you hadn't considered/identified previously.
- An opportunity for you to become aware of other relevant issues early on.

**Examples** of what you need to consult about include:

- Informing the employee of the situation, what you intend to do about it, and why.
- The criteria for the selection process.
- Ways to avoid/minimise redundancies.
- Listening to any concerns about the process (or any other relevant matters).
- Assisting and arranging time off for employees (for example, updating CVs and looking for training).

You're not legally required to consult with your employees **as a group/collectively** in small-scale redundancy situations, but double-check to see if your employee contracts, policies or union agreements require you to do so. Even if there isn't a set requirement, you could always consult as a group if it will help. Remember, this has to be in addition to (not in place of) individual meaningful consultation.

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#### **Step 3: Choose redundant staff carefully**

When you are making an entire, specific group of staff redundant, you have already identified a clear criteria and **pool** for who you need to make redundant (for example, if a farm shop closes its bakery, it will no longer need any bakers).

However, many employers wish to reduce staff/team numbers rather than remove a certain role completely (for example, if an estate agent has less business, it may not need as many staff to sell houses, handle admin or deal with customer enquiries). In this case, you'll need to set up **selection criteria** for the **pool** of staff to be considered for redundancy.

#### **The pool (staff at risk of redundancy)**

In many cases, the pool of staff to choose may seem obvious. However, where there is a business need, you may widen the pool to include staff with a lower skill-level, even though the redundancy might not directly affect them, to ensure you retain key staff for future growth. See [Real-life situation – selecting who will leave](#) for an example of how this can be applied.

#### **The selection criteria**

Once you identify a pool, decide how to fairly and objectively choose between them. Draw up a list of criteria using the [Selection criteria summary](#) in the 'Useful tools' section of this guide. You don't have to use all of the criteria, nor is the list exhaustive, but make sure you use more than one and ideally three to demonstrate your selection is fair and in line with business interests. Also, remember to consult with your employees about your choice of criteria.

It may help to hold staff interviews to select the most appropriate person(s) for redundancy. Be careful here - interviews can be subjective and there is a risk your choice may be based on how you feel about a person, rather than using your selection criteria. If you do conduct interviews, you could consider running these as part of a wider more objective selection process.

If you are making more than one group of staff redundant, it may be appropriate to use different selection criteria for different groups (for example, using sales statistics as part of a selection criteria would be unique for sales staff and would not apply to security staff).

Take care not to discriminate against anyone, - for example, exclude any absences or attendance issues in relation to disability, pregnancy or maternity.

**What are the protected characteristics in discrimination?**

Remember, it is unlawful to discriminate against people at work because of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, sexual orientation, religion or belief and sex. To find out more, visit our [Equality](#) page.

**What should I do about maternity leave?**

An employer must consult with an employee on maternity leave. Also, maternity leave should never be factored into absence scores. Similarly, ensure you don't test other criteria such as productivity or sales during maternity leave periods – and all employees should be scored from the same period where possible. For more detail on maternity and redundancy see the joint Acas & EHRC guide [Managing redundancy for pregnant employees or those on maternity leave](#).

These can be complex areas. If you would like to discuss your circumstances with an adviser, call the Acas helpline on 08457 47 47 47.

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#### **Step 4: Give redundancy notice and pay**

When you have used your selection criteria to identify which staff will be made redundant and completed the previous steps, you need to give notice that you are dismissing them – and to make sure they are paid correctly.

It is good practice to do this in a formal dismissal meeting and confirm the details in writing, making sure you give clear instructions on how to appeal against the decision. Keep a note of the date you gave the notice and the date the employment ends. Check contracts of employment for any formal dismissal procedure that may apply.

#### **Issuing notice of dismissal**

Notice starts on the first full day after the employee receives the notice, so be careful if you're posting out written notice or have employees on leave.

Notice periods for redundancy are usually the same as those you would give when terminating a contract of employment. At the very least, it needs to be the longer out of a) what's in the employee's contract, or b) what their minimum statutory entitlement would be.

The statutory minimums for periods of notice are:

- One week if the employee has been continuously employed for one month or more, but less than two years
- One week for each year of employment (up to a maximum of 12 weeks) if the employee has been continuously employed for two years or more.

#### **Statutory notice pay protection**

If you are contractually required to give notice which is at least one week longer than your employee would be statutorily entitled to, this section does not apply to you. For example if your employee has a contractual right to 3 weeks notice but has worked for you for 5 years, that would mean they would have a 5 week statutory notice entitlement that overrides your contractual provision, and the protection mentioned below would apply.

All employees must receive at least the statutory level of notice. If your contract sets notice at the statutory level, you will be legally required to pay employees for their full weekly pay (if they have normal working hours) or an average known as a 'week's pay' (if they have irregular working hours or normal working hours where the pay varies with the work done) during their notice period.

Where your employees are working their usual hours, this would happen anyway, but if any of the employees are:

- Ready and willing to work, but you don't/can't provide them with work;
- Incapable of work because of sickness or injury;
- Absent from work wholly or partly because of pregnancy, childbirth, maternity leave, paternity leave or adoption leave;
- Absent from work to take holidays

...then you will need to make sure they still receive their normal week's pay.

This is a complex area of employment law. If you have a specific query, contact the Acas helpline on 08457 47 47 47.

## **Arrange redundancy pay**

If you have no contractually-enhanced redundancy pay arrangements, all your employees with at least two years' continuous employment get a statutory redundancy pay entitlement of:

- 0.5 week's pay for each full year they were under 22
- 1 week's pay for each full year they were 22 or older, but under 41
- 1.5 week's pay for each full year they were 41 or older

Employees can only count a maximum of 20 years' service and the 'weekly pay' is subject to an upper limit. You can find the current limit from the [Redundancy payments and notice](#) page.

If you have a contractually-enhanced redundancy pay arrangement, your employees must receive more than they would have under the statutory scheme, and your arrangements should mirror the age-based provisions of the statutory scheme, too.

Redundancy pay under £30,000 is not taxable and is something an employee receives in addition to any other payments such as notice and outstanding annual leave etc. You must give your employees a written statement showing how you have calculated their individual entitlement and should make it very clear how much they will be getting – and when they can expect to receive it.

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#### Step 5: Remember notice period rights

##### **Paid time off to look for work/arrange training**

Employees who are in their redundancy notice period and would have had at least two years' continuous employment by the time their notice ends have a right to reasonable time off during working hours to look for work or make arrangements for training. Only some of this may have to be paid time off (see below).

Time off could include activities such as:

- Visiting jobcentres and recruitment agencies.
- Attending job interviews.
- Getting help writing/updating CVs and/or job applications.
- Events linked to college, university or apprenticeship enrolment.

While it's likely that a complete refusal for any time off is going to be unlawful, you are expected to take your business needs into account. The length of the notice period, when a request for time off was made, the local employment environment, health and safety requirements and the effect the absence would have on the running of your business are just some factors to consider when you're working out what is and is not reasonable.

Regardless of the amount of time off you allow, you are only statutorily required to pay a maximum amount that is equal to two fifths of one week's pay during the **entire** notice period. For example, if Jane earns £250 a week and is in a ten-week redundancy notice period, she would be entitled to a maximum statutory amount of £100 paid time off during her entire notice period under this right. Of course, you can choose to pay more if you wish, or if you have a contractual agreement.

##### **Alternative job offers**

You may find you have other work available in your business that you could offer employees selected for redundancy. There could be advantages when redeploying employees in this way, such as retaining valued staff and their skills, and improving morale.

The positions that are available have to be suitable and reasonable, factoring in:

- The hours/working pattern.
- The workplace location.
- Pay and contractual terms.
- Job content and status.

A suitable role needs to be offered within the notice period - before the end of employment and as early as possible. When a new role is offered, employees usually have a statutory trial period of four weeks. The trial period will usually commence as soon as the old contract expires and will end four weeks after that. This trial period is for employee and employer to assess the suitability of the role and is only extended in very specific circumstances.

- If your employee agrees to a trial and finds the job role suitable and reasonable, they simply continue in the new role and are considered to have accepted this instead of being made redundant. No redundancy pay is due.

- If your employee agrees to a trial and does not find the job to be suitable and/or reasonable, then you will usually need to treat them as having been dismissed as redundant when their original contract came to an end. This means they should get their original redundancy pay etc.
- If you think your employee has either unreasonably refused a trial, or trials the role but then rejects it for a reason unrelated to how suitable or reasonable the role is, you may consider the employee to be no longer eligible for a redundancy payment. However, this can result in a claim of Unfair Dismissal if handled wrongly. The Acas Helpline on 08457 47 47 47 can offer more guidance on this.

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#### Step 6: Allow staff to appeal

There is no statutory obligation for you to have an appeal procedure for redundancy dismissals, as the Acas Code of Practice on Discipline and Grievance Procedures does not apply. However, when you give formal notice of a redundancy dismissal, it's good practice to offer an appeal (although if you have a contractual dismissal policy you still need to follow that).

Building in an appeal system:

- Gives you early warning that an employee is unhappy with the process or the redundancy.
- Allows you to deal with a complaint and resolve matters at an early stage, reducing the likelihood of an employment tribunal claim.
- Would likely show a tribunal that you have followed a fair procedure.

#### **Appeal process**

- Write to the employee offering to consider a written appeal if submitted within a reasonable timescale – five days is commonly used. Make it clear that any appeal should give the grounds for the appeal.
- Arrange a meeting to discuss the complaint without unreasonable delay. You could write an invitation letter with a suitable time and place, and allow them to bring a work colleague or union representative.
- If possible, arrange for a more senior staff member – or yourself - who has not been involved in the decision making to conduct the appeal meeting. If you are the owner and only manager try to be as impartial as possible, or you might even consider using a consultant to help by writing an independent report for you to consider when making your decision.

#### **Appeal decision**

Consider the matters raised as part of the appeal process, without unreasonable delay, and, make a decision on the outcome to either refuse or uphold the appeal.

- If you decide to **refuse** the appeal, the redundancy dismissal, pay and notice you have issued continues as originally proposed.
- If you decide to **uphold** the appeal and the employee has not yet ended their redundancy notice period, the employment contract will normally continue as though the employee had not been selected for redundancy in the first place.
- If you decide to **uphold** the appeal and the employee has ended their redundancy notice period, you will need to seek to reinstate them and their continuous service will apply from when you first employed them. You may need to pay any arrears of wages between the end of the notice period and the time you reinstate them.
- If you have made a redundancy payment to your employee and you subsequently uphold an appeal, you should make it clear that upholding the appeal requires the payment to be returned.

Whichever you decide, confirm your decision in writing as soon as possible.

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#### **Step 7: Focus on the future of your business**

Carrying out a redundancy process of any size is a large undertaking for anyone, but it's crucial to remember that, unless you're closing completely, the redundancy process is meant to be the first step in getting your business healthy and back on track.

Try to factor in:

#### **What you have learnt from this process...**

Some options for how your business might change will have started to take shape early after it became clear your business needed adjustment. Other options could arise from talking to your staff and managers. Remember to explore, develop and act on good suggestions.

Also, remember that you and any managers that helped carry out the redundancy exercise may have picked up skills and experience along the way and particularly in consultation, negotiation and improving efficiency. These skills are transferable and you may be able to use them in both internal and external business relations.

#### **Making the best use of your remaining staff**

First and foremost, remember that it's likely your remaining staff are just emerging from a difficult period that may have seen them lose colleagues or be at risk of redundancy themselves. They are likely to be as concerned about the future as you are. Talk to them. Seek their views and suggestions for going forward and you'll likely increase their enthusiasm and morale.

It's also likely that some of your remaining staff will have seen their workloads change. Some may have taken on some responsibilities the redundant staff originally had. Others may have less work to do. Minor adjustments to workloads are likely to be seen as reasonable day-to-day requests, but be careful not to overload staff. Major adjustments are likely to require some variation to staff employment contracts, which requires you to follow a proper process. To find out more, see Acas [Advice leaflet - Varying a contract of employment](#).

#### **Managing change**

Finally, don't forget that while a redundancy situation is likely to be one of the largest examples of managing change you will encounter, change is likely to continue for some time while you get back on track. Understanding what change is and how to handle it can be very valuable. To find out more, see [Acas Advisory booklet - How to manage change](#).

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### Useful tools: Selection criteria summary

#### **Absence and Attendance**

- It's easier to score absences and punctuality fairly if you keep good records.
- If you are comparing staff with different lengths of service, be careful. For example, if you were to look at records from the past six months, an employee with 18 years' service who has had one absence could be selected for redundancy over a colleague with 18 months' service and no absences. Here, it might be advisable to look back over a longer period.
- Exclude anything you've authorised like holidays, parental leave and dental appointments. You'll also need to exclude disability or pregnancy-related absences, as including them can make the selection discriminatory and unfair.

#### **Disciplinary records**

- Again, it's essential to have proper records if you score on discipline.
- Make sure that any disciplinary records used are taken from fair disciplinary procedures that meet the standards outlined in the statutory Acas [Code of Practice 1 - Disciplinary and Grievance Procedures](#).

#### **Performance**

- You might include performance in your criteria if you have a regular performance management system that's applied consistently to your staff.
- Consider whether you want to use positive performance measures (like meeting sales targets), negative performance measures (like valid customer complaints) or a mix of both.

#### **Skills, experience and qualifications**

- Often these are used together for fairness and to reduce the risk of age discrimination. For example, you might ensure your criteria balance the value of a longer serving employee with vast experience with a more recent employee with the latest qualification.
- Remember to only factor in skills, experience and qualifications that are relevant to the job and/or your business.

#### **Last in first out (the most recent employee is the first to be dismissed)**

- Do not use this on its own as it could be discriminatory if your newer workers mostly have a protected characteristic – for example, they may be younger than your longer-serving staff.
- Although this method is not recommended as good practice in most circumstances, it can be used it as *part* of a wider selection process, or if there is no other way to fairly choose between two employees.

#### **Treating everyone fairly**

Remember in [Step 3](#), this guide covered:

- How to avoid discriminating against your employees;
- Your additional obligation if you have staff on maternity leave during a redundancy process.

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#### **Useful tools: Real-life situation – Avoiding redundancies**

**You run a small bakery, employing 18 staff over three shifts on a rota system. Orders have tailed off over the past six months and some of your employees are beginning to ask questions about job security.**

**Cash-flow is now a problem and while you know the matter needs addressing without delay you are daunted by both the process and cost of making redundancies.**

#### **What do you do next?**

You meet with the Bakery Manager and brief her on the situation. She is relieved to discuss the problems with you. You agree that the afternoon shift is most affected by reduced demand. In contrast, she explains that the morning shift is so busy and understaffed that serious mistakes are being made. This is causing unrest between colleagues on different shifts. The Bakery Manager also mentions that some staff members regularly swap shifts for personal reasons such as school runs and caring responsibilities.

Between you, you decide that a change in shift patterns could resolve the situation. You need more people during the mornings, a skeleton afternoon shift and a slight reduction in numbers on nights. Together, you draw up a basic plan of how many staff are needed on each shift and then agree how to discuss this with staff.

You go on to have group meetings with each shift, explaining the gravity of situation and that introducing a new shift pattern could avoid any redundancies. Some staff are concerned and you explain that you will discuss your proposals individually with everyone. You also emphasise this is an opportunity for them to make suggestions and that you welcome their input.

Within a week you have one-to-one meetings and find ideas you had not considered - for example, flexible workers opting for just one shift lose their shift allowance. You draw up detailed proposals and have further meetings. You agree new contracts with staff and appoint a supervisor to oversee the new rota system.

Three months later, the new rota is working well, teething problems have been resolved, staff are engaged and fewer mistakes are leading to an increase in orders. You thank staff for their commitment and involvement in the process.

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#### **Useful tools: Real-life situation – Making a redundancy**

**You have noticed a steady decline in business in your alterations service over the last six months. You have three seamstresses who are becoming increasingly concerned and have started asking difficult questions about the future of the business.**

**You had hoped that business would pick up and you could avoid making redundancies, but the situation has become critical from the business's perspective and employees uncertainty.**

#### **What do you do next?**

You talk to your employees honestly about the situation, discussing alternatives to avoid redundancies but no solution is found. The employees are asking who is going to be made redundant, and rumours begin to surface. You quickly realise that you have to consult further and compile a selection criteria to choose who will be made redundant, aiming to keep the most skilled staff to continue the business.

Having asked staff to comment, you decide to use three areas to help you decide who you will choose:

- Skills and experience.
- Disciplinary records.
- Standard of work.

You score your employees with one clearly scoring lowest. You invite the employee into a meeting to discuss the criteria and her score. You explain that you do not want to make anybody redundant, but have to preserve the business. Your employee is upset but understanding of the situation. You invite your employee to consider and propose any alternatives that haven't been previously discussed.

At a further meeting, after allowing reasonable time to consider everything, you explain that she has been chosen for redundancy, will need to work her statutory notice period, that she can have time off to look for alternative work and that she will receive a statutory redundancy payment which will be made after the notice period. You confirm all this in writing.

You are upset that you have had to make a well-liked employee redundant, but are relieved you have dealt with the situation instead of allowing the business to spiral into further decline. You can now focus on the future and ways to grow your business.

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#### **Useful tools: Real-life situation – Selecting who will leave**

**You are the managing director of a small and growing technology company designing and selling software products. You have a technical team with four software developers, and a sales team of seven.**

**You expect increased revenue from growing sales of existing products will lead to future re-investment for long-term growth. However, there is currently only enough full-time work for one person in the technical team.**

#### **What do you do next?**

Your designers are intrinsic to future growth and you do not want to lose their skills in a redundancy situation. Some were involved in selling and promoting the business when in its infancy.

You consider the current job roles within the business and decide to widen the pool to include both the technical and sales staff. You draw up a list of selection criteria that includes essential skills for both roles along with absence, attendance and disciplinary records, and give each a best score of five.

You call a group meeting with the staff, informing them in advance that it is to discuss the future of the business. You advise them that they are all at risk of redundancy and propose a restructure of the business to include both technical and sales functions within some roles. You go on to explain your proposed selection criteria, how you will score individuals against this, and invite them to contribute ideas before final criteria are agreed.

Next, you arrange one-to-one consultation meetings and discuss the proposals in more detail. Constructive feedback helps you draw up a final list of selection criteria which you then use to score each employee. Individual scores are disclosed at further consultation meetings only to whom they relate and everyone has the opportunity to discuss them and raise any other matters. You discuss and agree the incorporation of sales duties with technical staff.

You identify the three people who score lowest and continue with a fair redundancy procedure to bring about their dismissal. You continue to have regular contact with remaining staff over the coming months and address matters arising from the new structure, thanking staff for their continued commitment to the future of the business. Sales continue to increase in line with business objectives and future investment in new developments looks viable.

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#### **Useful tools: Frequently-asked questions**

##### **Is there a minimum timescale to consult in small-scale redundancies?**

There is no statutory fixed period of consultation required where you are making fewer than 20 employees redundant. However, check your employment contracts and any policies/agreements in case you have a contractual obligation to do so. You are, however, required to have meaningful individual consultation (see [Handling small-scale redundancies - Step 2](#)).

##### **Why can't I use last in first out?**

You can, but it's not usually going to be good practice and you should never use it on its own. Using this in isolation could be discriminatory. For example, if your newer workers are mostly younger, it could mean you treating them less favourably simply because of their age, even if you didn't mean to. For more information on this and other criteria, see the [Selection criteria summary](#).

##### **Can I lay-off without pay to avoid redundancy?**

A lay-off is a short-term solution for a temporary situation and is not the same as a permanent redundancy. There's also no automatic right to lay-off your staff, especially without pay – you need to have (or get agreement for) lay-off provisions as part of the terms and conditions of your employment contracts. For more information, see [Acas Advice leaflet - Lay-offs and short-time working](#).

##### **Do I need to consult with a trade union in small-scale redundancy situations?**

There is no statutory requirement for you to consult with a trade union for this reason. If you are a larger organisation but making fewer than 20 redundancies, double-check to see if your employee contracts, policies or union agreements require you to do so. Even if they don't, it can be useful to include trade unions in the consultation process so that there is a good working understanding of the situation by everyone.

##### **If I am closing my business, will the Government pay statutory payments to my employees?**

Provided that the employees would have been entitled to statutory payments such as redundancy pay, notice pay, arrears of wages and outstanding holiday pay, the National Insurance fund can make statutory payments if your business is unable to. However, this is in very specific circumstances only and can be a complex area. To find out more about redundancies if your business is insolvent or closing, contact the Redundancy Payments Service Helpline (currently managed by Acas) on 0845 145 0004.

##### **Does an employee have a right to be accompanied during consultation meetings in small-scale redundancy situations?**

There is no statutory requirement to allow an employee to be accompanied for this reason, but double-check to see if your employee contracts, policies or union agreements require you to do so. It is usually good practice to allow employees to bring a work colleague or union representative into such meetings and can help increase staff confidence in your handling of the process.

##### **If I sell my business, do I have to make my staff redundant?**

No. If you are selling your business in most circumstances, your staff will transfer as part of the business. There are specific rules to protect employees from dismissal if the sole or principal reason for dismissal is the transfer itself. For more information on this area, contact the Acas Helpline on 08457 47 47 47.

**Do zero hours contract workers qualify for redundancy pay?**

In many cases, a zero hours contract refers to a genuinely casual relationship where an employer recruits a 'worker', rather than an 'employee'. Only 'employees' are covered by redundancy rules. It is very important to assess the employment status of your staff accurately. A wrong decision here could give rise to a successful claim of unfair dismissal. For more information about zero hours contracts, see Acas guidance on [Zero hours contracts](#).

**If an employee has less than two years' service (and so wouldn't qualify for a redundancy payment) is it still a redundancy?**

Yes. While employees with less than two years' service will not qualify for a statutory redundancy payment, the reason for terminating the contract will still be redundancy and a fair process should be followed.

**Can a clause in a contract waive the right to a statutory redundancy payment?**

No. A contract of employment cannot remove an employee's right to a statutory redundancy payment or any other statutory right. However, a contractually enhanced redundancy pay scheme may improve on the statutory entitlement.

**Can I make a part-time employee redundant?**

Yes. However, you are statutorily required to make sure you do not treat your part-time employees less favourably than your full-time employees, so ensure your consultation process and selection criteria do not inadvertently penalise part-time employees.

**An employee I have selected for redundancy has been part-time for the past 12 months but full-time for six years before that. How do I calculate redundancy pay?**

There are different methods to calculate redundancy pay, depending on whether employees have regular or irregular hours of work, and if their pay varies with the amount of work they do. However, the calculation methods all focus on what the employee is currently receiving (or receiving on average) in terms of a 'week's pay'.

Therefore, the fact that the employee had worked full-time originally is unlikely to affect the 'week's pay' calculation. But, the fact that the employment was continuous means that it will count towards the part of the overall redundancy calculation that uses the employee's length of service. If you need basic assistance calculating your redundancy payments, visit [GOV.UK - Calculate your statutory redundancy pay](#) and for more complex calculation queries contact the Redundancy Payments Service Helpline (currently managed by Acas) on 0845 145 0004.

**Is a voluntary redundancy a resignation?**

No. The fact that an employee volunteers for redundancy doesn't mean the employment contract is terminated by mutual consent. Instead, voluntary redundancy is recognised as a redundancy dismissal.

**If business needs change, how long do I have to wait before I can recruit again?**

There is no fixed period of time following a redundancy exercise in which you need to avoid recruiting. If your business situation genuinely changes

unexpectedly and a role you previously made redundant has to be re-created because you now need new staff, you can recruit as and when you like. Remember that any staff working their redundancy notice periods should be given the chance to trial these new roles first if they are potentially suitable and reasonable alternatives.

**If I recruit again, do I have to offer a job to the person I made redundant?**

If you're recruiting into roles you've recently had to make redundant, you may wish to proactively recruit your original employees as there is a good chance their skills and experience will give your business efficiency savings and advantages that you may not get with completely new employees. However, you're not statutorily obliged to do so.

**Can an employee who is pregnant or on maternity leave be made redundant?**

Yes. However, absences related to pregnancy or maternity leave should never negatively affect an employee's selection criteria score. Similarly, it is automatically unfair to select an employee for redundancy because she is pregnant or on maternity leave.

Also, women on maternity leave who have been selected for redundancy have a statutory entitlement to be given priority above any other employee (even where others are more qualified or experienced) to be offered any suitable alternative vacancies. For more detail on maternity and redundancy see the joint Acas & EHRC guide [Managing redundancy for pregnant employees or those on maternity leave](#).

**Can an employee see other people's selection scores?**

Usually not. Individual selection scores are a matter between that employee and the employer. However, where there is concern over the scoring, it may be appropriate to anonymise your employees' scores and subsequently share them – but only if it's absolutely necessary and can be made genuinely anonymous.