

# Redundancy facts and fictions

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## What every employer and employee should know!

When faced with the challenging prospect of redundancy, it's crucial to understand the legal requirements and common misconceptions surrounding the process. Whether you're an employer trying to navigate redundancy laws or an employee facing potential redundancy, this guide will clarify the facts and debunk the myths.

## Understanding redundancy: The facts

### What is redundancy?

Redundancy occurs when a job or position within a business is no longer required. This can happen for several reasons, such as introducing new technology, changing working methods, restructuring, or even closing a branch or the entire business.

### Employer obligations in redundancy situations

Employers have specific legal obligations when making redundancies. These include:

- Providing clear information about why redundancies are necessary.
- Outlining how many employees will be affected.
- Explaining the procedures and timelines involved.
- Clarifying how redundancy payments will be calculated.
- Detailing the criteria used for selecting employees for redundancy.

## The selection pool for redundancy

Selection for redundancy must be based on clear, objective criteria. Skills, experience, performance standards, disciplinary records, attendance, and timekeeping are all factors that can be considered. However, these criteria must be applied fairly and consistently to all employees at risk of redundancy. Employers must also be careful to avoid any form of discrimination in the selection process.

## The importance of consultation

Once employees are notified of potential redundancy, employers are required to consult with them. If 20 or more employees are affected, the law mandates at least 90 days' notice and collective consultation with trade unions or elected employee representatives. Additionally, the employer must inform the Secretary of State of the impending redundancies.

Individual consultations are required for smaller redundancies affecting fewer than 20 employees. During these consultations, employees have the right to be accompanied by a colleague or trade union representative. The consultation process should explore alternatives to redundancy, such as reassignment to different roles or relocation.

## Understanding redundancy pay

Employees with at least two years of continuous service are entitled to statutory redundancy pay. The amount varies based on age, length of service, and weekly earnings:

- **Ages 17-21:** Half a week's pay for each full year worked.

- **Ages 22-40:** One week's pay for each year worked from age 22 and half a week's pay for each full year before that.
- **Ages 41 and above:** One and a half weeks# pay for each full year worked from age 41, one week's pay for each full year worked between 22-40, and half a week's pay for each year between 17-21.

Additionally, employees will either be required to work through their notice period or receive payment in lieu of notice. The length of this notice period is determined by an employee's employment contract and the duration of their service with the company. They will also receive payment for any accrued but unused holiday unless asked to take this leave during their notice period.

The first £30,000 of redundancy pay is tax-free. Additionally, employers may offer enhanced redundancy packages to avoid a full redundancy process, often through a settlement agreement.

## Common myths about redundancy: The fiction

### Myth 1: Redundancy equals unfair dismissal

**Fact:** Redundancy is a lawful form of dismissal. If carried out correctly, it is considered a fair dismissal.

### Myth 2: Employees can be made redundant immediately

**Fact:** Employers must adhere to legal requirements for consultation and notice periods. Failure to do so could result in an employee filing a claim with an Employment Tribunal.

### Myth 3: Employees cannot challenge a redundancy

**Fact:** Employees have the right to challenge various aspects of the redundancy process, from the justification for redundancies to the selection criteria used.

### Myth 4: Redundancy can be used to dismiss underperforming employees

**Fact:** Using redundancy as a cover for performance-related dismissals is not lawful and can lead to unfair dismissal claims.

### Myth 5: All redundant employees are entitled to redundancy pay

**Fact:** Only employees with two or more years of continuous service are entitled to statutory redundancy pay. It's essential to review the employment contract to determine specific entitlements.

### Myth 6: Redundancy only affects the newest employees

**Fact:** Redundancy selection should not be based solely on the "last in, first out" principle. Such an approach may expose the business to claims of unfair selection for redundancy.

## Conclusion

Whether you're an employer or an employee, navigating a redundancy situation requires careful consideration and adherence to legal requirements. Missteps can lead to costly legal challenges, so seeking professional advice is crucial to ensure the process is handled correctly.

Contact [Patrick Simpson](#) today for expert guidance on redundancy procedures and employee rights and to answer any questions you may have.

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Note: This article is not legal advice; it provides information of general interest about current legal issues.

