



**Topics covered:** Business Reorganisation & Redundancy / Statutory Redundancy Pay

## Business Reorganisation & Redundancy

Generally speaking, redundancy is a situation where the employer decides to reduce the number of staff within the business. This may be in a particular branch, department or role. There may be any number of reasons why an employer considers redundancy. Our team offers specialist advice on handling redundancy situations to minimise the risk of costly claims.

In a disputed redundancy situation, the Jersey Employment and Discrimination Tribunal “the Tribunal” must be satisfied that redundancy was the genuine reason for the dismissal. In making this decision, the Tribunal will consider whether the statutory definition of redundancy contained in the Employment (Jersey) 2003 Law is satisfied. This may mean that there has either been a business or workplace closure or a diminished requirement in the business for employees to do work of a particular kind.

In a disputed redundancy, the Tribunal then looks at the fairness of the procedure adopted by the employer. This is a potential minefield for employers, who need to ensure that they follow the correct procedure and apply it fairly; otherwise the employee may be able to claim a redundancy payment and also unfair dismissal, (though the tribunal will reduce an award for unfair dismissal to take account of any redundancy payment received by the employee).

The employer has a duty to warn the employee of the possibility of redundancy and consult with them before it happens. Consultation must be meaningful, to the extent that the employee must understand what they are being consulted about and given the opportunity to put forward their views. This may involve discussion about alternatives to redundancy, such as shorter working hours or a reduction in pay. The next stage is for the employer to select a pool

of employees from which it will ultimately select those who are to be made redundant. The employer should then fairly apply selection criteria to those within the pool. The selection criteria must be reasonable and applied objectively. Employees selected for redundancy should have the right of appeal.

Once an employee has been selected for redundancy, the employer should consider whether they can find suitable alternative employment for them within its organisation. If an employee refuses to accept a reasonable offer of suitable employment to start within 4 weeks of the date of termination of employment, the employee would become ineligible for a statutory redundancy payment.

An employee who has been made redundant is entitled to take paid time off equivalent to 40% of one working week (e.g. 2 days in a 5 day week) to train or seek alternative employment.

Where the employer intends to make 12 or more employees redundant within 30 days it has a statutory duty to collectively consult with “employee representatives” in accordance with a procedure set out the Employment (Jersey) Law 2003.

## Statutory Redundancy Pay

Since January 2011 there is a statutory entitlement to a redundancy payment. This equates to 1 week’s pay per year of service. There is an upper limit of £680 on the value of a week’s pay. This is based on the average weekly earnings in Jersey as published by the States of Jersey Statistics Unit. To qualify for statutory redundancy the employee must have done a minimum of 2 years’ service.

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