

## Useful rights when at risk of redundancy

### Notice of dismissal

Most employees have a legal right to a period of notice if their employer dismisses them. Many employees will have extra rights to notice under their contract of employment.

### Does my employer have to give me a reference?

Usually, you don't have a right to a reference from your employer. But your employer does have to give you a reference in some situations, for example:

- if your contract says they have to give you a reference
- where the reference is needed by a regulatory body. This might be a body like the Financial Conduct Authority so they can make sure people employed to give financial advice are qualified to do this.

There are different reasons why your employer might refuse to give you a reference. If you think your employer won't give you a reference for a reason related to your race, disability, sexual orientation, age, religion or belief or gender reassignment this might be discrimination.

### Can my employer write a bad reference about me?

Your employer has a duty to write an accurate reference about you, and shouldn't mislead the employer asking for the reference. But some information shouldn't be included in a reference, unless you agree to it. This is information like your medical records, or information about spent criminal convictions.

Your employer also mustn't give information in a reference or another document, for example, an e-mail, which is inaccurate, or which is deliberately wrong or misleading. If this has happened, you may be able to take action against your employer.

## **Your legal rights when facing redundancy**

If you're faced with redundancy, your employer must treat you fairly and act in accordance with your contract and legal redundancy rights. That includes making sure you're consulted, following the right selection process and giving you a proper notice period. If not, then you could have a claim for unfair dismissal, or claim compensation for lack of consultation.

Redundancy happens when your job disappears. It is not the same thing as being dismissed from your job for other reasons

Your employer must use a fair and objective way of selecting job roles to make redundant, and tell you what it is. If you think you've been selected unfairly (say, on the grounds of age, race or gender), or your employer has acted unfairly in other ways, you can normally appeal.

If you're still not satisfied you can take your employer to a tribunal.

### **Redundancy versus unfair dismissal - Your right to a minimum notice period**

Make sure you check your contract of employment, as it might state that you're entitled to longer notice periods.

A notice period is the amount of time between when your employer tells you that you will be made redundant and your last working day.

According to redundancy law, you're entitled to a minimum notice period of:

- 12 weeks' notice if employed for 12 years or more.
- At least one week's notice if you have been employed between one month and two years.
- One week's notice for each year if employed between two and 12 years.

### **Pay in lieu of notice**

If your employer doesn't want you to work your notice period they can offer you a lump sum instead – called pay in lieu of notice. This is taxed in the same way as your ordinary pay.

## **Gardening leave**

You might be asked to serve out your redundancy notice away from work. This is known as 'gardening leave' and it means that, although you're not actually working, you're still legally employed and will receive your normal salary and benefits but:

- You have to stick to the rules of your contract.
- You might be called back to work if you're needed.
- You can't start a job with a new employer.

## **Compromise agreements**

If your employer has not followed a fair procedure in selecting you for redundancy, they might sometimes ask you to sign an agreement stating that you'll not go to an employment tribunal (often in return for an extra payment).

This is known as a 'compromise agreement'. Your employer must pay for you to receive independent legal advice so you fully understand the rights you're giving up.

## **Your right to consultation**

Employers always have to consult with employees before dismissing them on the grounds of redundancy. In short, your employer must tell you what's going on and give you a chance to ask questions and raise objections.

As part of the consultation process, employers have to:

- Consider alternatives to redundancy.
- Look at ways to reduce the numbers of redundancies.
- Look at how they can reduce resulting hardship.

The process your employer has to follow will depend on the number of redundancies planned.

## **Your right to time off to look for work**

You're entitled to paid time off to look for work or undergo training. The amount of time you can take has to be reasonable: if you've worked continuously for

your employer for at least two years they have to pay you up to 40% of a week's pay to cover your time off.

For example, if you work a five-day week you can take two days off in total to attend interviews and your employer will have to pay you for this time. If you take any more time off than this, they don't have to pay you for it. Some employers are more generous so it's worth discussing it with them.

### **Leaving your job early**

If you're offered a job and your new employer wants you to start before your redundancy notice ends, speak to your employer and see if you can leave early without losing your redundancy pay.

Put your request to leave early to your employer in writing saying when you want to leave. If you leave early without your employer's permission, you could lose some or all of your redundancy pay.

**Remember** - If your employer refuses, take advice from your trade union, Citizens Advice Bureau or ACAS.

### **Last day checklist**

On your last day at work you should receive the following:

- Any redundancy pay, wages, holiday pay and other money due to you
- Job references from your employer
- A letter stating the date of your redundancy
- A written statement showing how your redundancy pay has been calculated
- Your P45 (to give a new employer so you're taxed correctly)
- Details of your pension