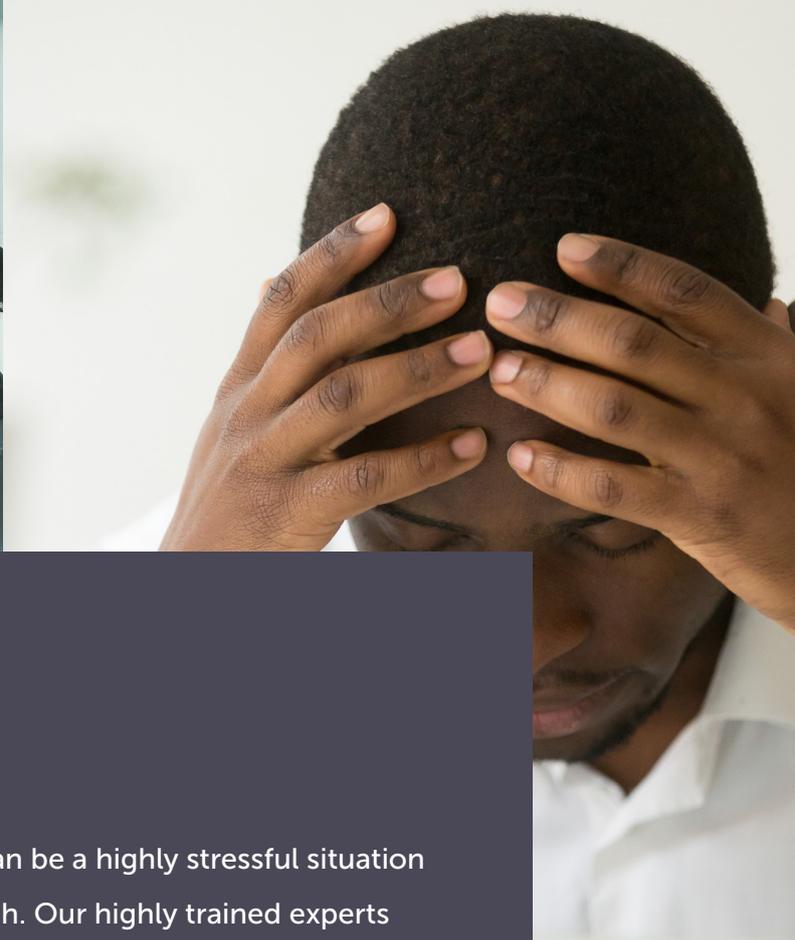


Redundancy

What you need to know and do

We know what you are going through, and we are here to help.



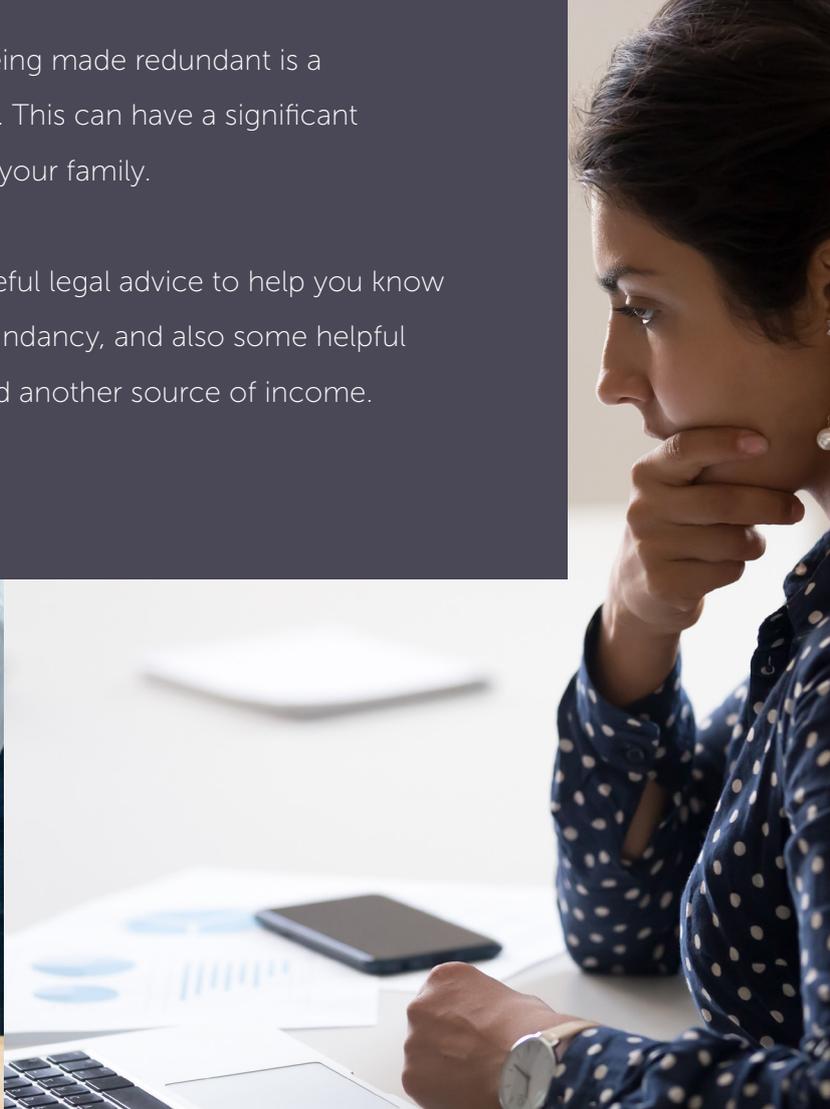


We know...

That being made redundant can be a highly stressful situation for any individual to go through. Our highly trained experts offer support and care to all of our clients. We will provide you with informative redundancy rights advice that will help you come to a decision which will benefit you.

Being told that your job is being made redundant is a devastating blow for anyone. This can have a significant financial impact on you and your family.

This guide will give some useful legal advice to help you know your rights when facing redundancy, and also some helpful action points to help you find another source of income.



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What is redundancy?

Redundancy is when your employer needs to reduce its workforce because a job or several jobs are no longer required. It also includes situations where there is a closure of a workplace or business.

The most common reasons for redundancy include:

- New technology has replaced the need for employees
- The job you were hired to do no longer exists
- The business is closing or relocating
- The business has been bought by another company

Sometimes, you may have to reapply for your job. This process may seem unfair, but it can be used as it allows an employer to help make a final decision. However, if you don't reapply or are unsuccessful with your application, you will still have a job until your employer makes you redundant.

What is not classed as redundancy?

You must be selected fairly to be made redundant. If you are selected on any of the following grounds, this is **unfair dismissal**:

- Gender
- Age
- Marital status
- Race
- Disability
- Religious beliefs
- Whether you are member of a trade union
- Maternity leave
- Paternity leave
- Whistleblowing, for example, exposing your employer's wrongdoing
- Doing jury service
- Taking part in lawful industrial action lasting 12 weeks or less
- You are the trustee of a company pension scheme

If you are selected for any of these reasons, you may have a claim before an **Employment Tribunal** for unfair dismissal. If you believe you have a case for unfair dismissal, it is important to write to your employer explaining your reasons.



I was so impressed with Katie's advice. She was very professional, to the point and helped me in what was a very difficult situation. Her advice gave me the confidence I needed and was a real boost.

Mr D, Sheffield

A fair redundancy process



1

The consultation process: the initial redundancy consultation meeting

Your **employer must make you aware** that you have been provisionally selected for redundancy. Your **employer must meet with you at least once** before making their final decision. During this initial meeting, you should be able to discuss:

- Why the company needs to make redundancies
- If there any other jobs available
- Any questions that you may have about the next steps
- Why you have been chosen for redundancy

This meeting can also be used an opportunity to highlight any concerns as to why you shouldn't be made redundant. If you have grounds for unfair dismissal, now is a good time to highlight your case. This may help to buy some extra time and keep you in employment longer.

After this meeting, you may need a few minutes for the news to sink in. It is important to remain calm and remember there are other opportunities available. It is best to be proactive.

2

Actions you can take ASAP

- 1. Ensure that you are being made redundant for the right reasons**
If you feel you are being treated unfairly or are being discriminated against, it's best to seek legal advice.
- 2. Look to see if you have insurance to cover the costs of an Employment Tribunal claim**
This is often included in Home Contents Insurance and is often referred to as Legal Expenses Insurance or Family Legal Protection.
- 3. Review and update your CV**
Think about your current skillset. Is your CV up to date? This is a good time to update and make your CV stand out.
- 4. Start networking with others on LinkedIn**
If you are involved in a particular industry, it makes sense to network with other businesses. You may be surprised that they are looking for more staff. Sometimes it's a case of "who you know, rather than what you know".
- 5. Sign up to recruitment websites and agencies**
Websites such as Indeed, Reed and Monster can be great sources of opportunity. If you can apply for jobs and obtain interviews during the consultation process, you are one step ahead to safeguarding your income. However, it is also important that you remain loyal to your current employer during the consultation process.
- 6. Analyse your current finances**
Look at all of your outgoings and highlight what is deemed essential and what you don't need. If your current job situation is uncertain, it's vital to cut costs where you can.
- 7. Pay off any debts**
If you have any credit card debts or loans and have the means to pay these off, this will be a good option.
- 8. Access any insurance policies**
You may have some income protection insurance schemes in place. If you do, and can make a claim, this can provide some financial relief and can help with any ongoing payments.
- 9. Raise extra funds by selling unwanted items**
You will be surprised at the things that you may have around your home. It may be worth putting items on eBay or even having a car boot sale.

Top Tips

- By being proactive as early as possible, you have a better chance of keeping your options open. The consultation process is designed to look at ways of avoiding redundancies, but it is not guaranteed.
- Throughout the consultation process it is important that you ensure your employer keeps you up to date with the proceedings.

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The final consultation meeting

When your employer has come to their decision, you will be invited to a meeting to discuss this. At the final consultation meeting, your employer will **inform you of their final decision** and will confirm your role is redundant. At the end of the consultation, you will receive notice of your redundancy and confirmation of your entitlements.

A redundancy notice

Your length of service and age will determine the amount of your statutory redundancy payment. You will receive:

- Half a week's pay for each full year you were under 22
- One week's pay for each full year you were 22 or older, but under 41
- One and half week's pay for each full year you were 41 or older

You must have at least two years' service and length of service is capped at 20 years and tax free up to £30,000. In addition, you will be paid your notice period and any unused holidays. You could be asked to work your notice period and any unused holidays.

Notice period

You must be given notice before your employment ends. The statutory redundancy notice periods are:

- At least one week's notice if employed between one month and 2 years
- One week's notice for each year if employed between 2 and 12 years
- 12 weeks' notice if employed for 12 years or more

You may have something more favourable in your contract of employment, so double check your notice entitlement to make sure you are being given the proper amount of notice.

Settlement agreements

Rather than going through a lengthy and time-consuming redundancy process, it can be common for employers to try and **reach a settlement agreement**. This document is a legally binding contract between you and the employer. By signing this, you agree to the terms and conditions in the settlement agreement in exchange for enhanced severance pay.

As an employee, you will have no grounds for unfair dismissal, discrimination and entitlement to statutory redundancy pay if you sign the agreement. This process gives the employer peace of mind as they will not have to invest time and resources in defending any claims in an Employment Tribunal. It is important that any settlement agreement is seen and reviewed by an employment law solicitor. Your legal representative will review the settlement agreement to ensure that the terms and conditions are fair and that you understand what you are doing.

An employment law solicitor can also help to decide whether the level of compensation on offer is fair. If not, your solicitor may also help to negotiate a better deal.



An unfair redundancy

If you have been employed for over two years and feel you have been treated unfairly, you may have grounds for an unfair dismissal claim.

If you plan to make a claim, you have **three months minus one day** after your last day of employment to bring a claim. If you take your case to an Employment Tribunal, the following will be examined:

- Was redundancy the real reason for the dismissal?
- Did your employer follow a fair redundancy process?
- What was the selection process that was applied?
- Did your employer make reasonable efforts to offer you alternative work?
- If you were offered another reasonable job, did you turn it down?

If the redundancy process was not the reason for your dismissal you may have a claim for unfair dismissal or discrimination.

Automatic unfair dismissal

If your dismissal was related to any of the reasons below, you could have a case to bring to an Employment Tribunal for automatically unfair dismissal. You also don't need two years' service for most of these claims.

- Pregnancy and the birth of a child
- Health and safety reasons
- Being summoned for jury service and therefore being absent from work
- Discrimination
- Seeking flexible working hours
- Whistleblowing
- Acting as a trade union representative or participating in trade union activities
- Dismissal because of TUPE

If you are contemplating an Employment Tribunal claim we would highly recommend you seek expert advice. It is essential to be guided through the correct procedural steps before making a claim to an Employment Tribunal.



Life after redundancy

After being made redundant, it is important to have a plan of action. You will have more time on your hands and a routine is essential.

Look for work

Looking for a full-time job is a full-time job. It's important to keep your options open and continue your search.

Early retirement

If you have received a good pay-out, you may wish to consider early retirement and we advise you seek independent financial advice.

Downsize your property

If you have a larger property and don't need the space, you can consider downsizing your home. This will help to free up the equity tied up in your home and raise additional funds. We have one of the largest Residential Property teams in the area and can help you with this.

Start a business

If you have got the funds and contacts, you may wish to start your own business and our Business Legal Services team can advise you on the steps you need to take.

Change career

Perhaps you feel it is time to move on and start a new career. If you have the time and resources, training for a new qualification might be an option.



Sara has been amazing throughout the process and I can't thank her enough. Very professional, always a few steps ahead of everything, making sure my case is being taken care of. Sara has been an amazing support on every level, I couldn't have gone through it without her, she has been my rock. It was a pleasure working with her, I had total trust in her.

Miss P, Nottingham

5 most common redundancy questions



What are the most common reasons for redundancy?

Redundancy is defined by law as a situation where a business needs less people or is closing a workplace or an entire business.

It often happens where an employer has streamlined processes due to developments in technology and / or way of doing things. It can often happen where costs savings are necessary, but financial savings don't have to be the driving force - they just often are.

Where an employer is proposing to change how things are done, but still needs the same number of people to do the work, this isn't a redundancy. This is what is known as a restructure.

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Does my employer have to try to find me an alternative role first?

Part of a fair redundancy process is actually considering ways of avoiding dismissals altogether. It is likely that a dismissal will be unfair if an employer gives no consideration to whether there is a suitable alternative role within its organisation. This may even involve looking at whether there are any suitable vacancies in other group companies. It does not however mean that an employer has to create a vacancy where none already exists.

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How long does the redundancy process take?

This very much depends on the circumstances. If there are less than 20 redundancies proposed within a 90 day period, then consultation probably won't last more than a week or two. However, if there are 20 or more, then there is a minimum consultation period of 30 days. This rises to 45 days where there are 100 or more within 90 days. Where there are more than 20 people affected, then there is also an obligation to consult with employee representatives. If these don't already exist and have a remit for such consultation, then consultation will be further delayed until the employee representatives are appointed - as consultation can't start without them.

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Should my employer give me time off to look for another job?

If your employer has decided that your role is redundant and has served you with notice to terminate your employment, then you are entitled to a reasonable amount of paid time off to seek alternative employment, including attending interviews, or to arrange training for future employment. However, you must have two years' service to be able to take advantage of this.

There is no definition of reasonable, but the amount of pay an employee can receive for taking this leave is 40% of a week's pay - so essentially two days for a full time, five day per week, employee.

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What does a redundancy consultation involve?

Essentially a fair process is one where:

- The employer informs and consults employees or their representatives about the proposed redundancy
- Adopts a fair basis on which to select for redundancy - this involves identifying an appropriate pool from which to select potentially redundant employees and using a proper, fair and objective, selection criteria
- Considers suitable alternative employment - this means that an employer must search for and, if available, offer suitable alternative employment



We know redundancy can be a distressing time for anyone. At Banner Jones, our team of Employment Law specialists have helped thousands of employees get the best possible outcome for them.

Talk to Banner Jones - **We are ready to help you**



Katie Ash
DIRECTOR, SOLICITOR,
HEAD OF EMPLOYMENT LAW

EMPLOYMENT



Sara Patel
CHARTERED LEGAL EXECUTIVE

EMPLOYMENT

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Disclaimer

The information contained in this update does not constitute legal advice. It's our best assessment of the current position and is in places based on opinion. In order to bring you a comprehensive guide we have included some financial information, but this does not constitute financial advice. If you want specific advice, please contact us.