Step-by-step non-collective redundancy process

Step 1. Consider suitable alternatives to redundancy

Are there any measures that could be put in place to reduce the need for redundancies? For example, consider reducing working hours, temporarily laying people off, early retirement, voluntary redundancies or career breaks, reducing spending on training, suspending bonuses, making salary cuts, a recruitment freeze, reducing overheads and utility costs, etc. Suitable alternatives vary in length of use, and some are short-term only. **Check that you are legally and contractually entitled to make changes to employment terms and conditions before implementing any alternatives to redundancy that affect individual employees.**

Step 2. Draft your business case

Document in writing the rationale for the proposed redundancy. The business case should include the following:

- The business circumstances, e.g. financial difficulties within the business, you no longer need or have a reduced need for employees with specific skills because of new technology or processes, you can operate with fewer or no staff, the business is closing down or moving, etc.
- The number of roles and departments potentially affected.
- The alternatives to redundancy that you are considering, e.g. salary cuts, suspension of bonuses, lay-offs, short-time, career breaks, early retirement, changes to benefits etc.
- The measures the Company already took to avoid redundancies in the last 6-12 months.
- The proposed timeframe for redundancies.
- The consultation arrangements.

It is best to write the business case with an unknown reader in your mind who does not have any knowledge of your business or its circumstances but who could read the business case and immediately understand the logic for the redundancy programme.

Step 3. Consider the costs of redundancy

An employee with **104 weeks** of service is entitled to **two weeks of normal weekly remuneration for every year of service, plus a bonus week.** The redundancy lump sum calculation is based on the worker's length of reckonable service and weekly remuneration, which is subject to a ceiling of €600 per week.

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An employee with less than two years of service with the Company is not entitled to a redundancy lump sum.

Any amount negotiated above the statutory minimum for eligible and ineligible employees is 'ex gratia'. You can ask the employee to sign a termination agreement drawn up by your solicitor before agreeing to any 'ex gratia' payment above their statutory entitlement.

Refer to redundancy financial planning tool provided.

Step 4. Determine your selection criteria

Redundancy is about making roles redundant, not the people that occupy them. As a result, the selection criteria must fairly identify the grouping of employees at risk.

A selection process will apply where an employee is selected from a group or "pool" of employees for potential redundancy. The pool of employees will usually occupy the same or similar roles as each other or perform similar tasks/duties and/or work in the same department.

The selection criteria may already be determined by the Company. For example, redundancies may be considered unfair by the WRC if the custom and practice in the Company have been 'last in, first out' and the selection did not follow this procedure or the employment contract sets out criteria for selection which is not followed.

In order to reduce the risk of employees claiming they were unfairly selected for redundancy, you will need to carefully consider the selection criteria applied to avoid any inference that the selection process was biased or that the outcome was somehow pre-determined.

Common methods used include:

- The **'last in, first out'** method of selection means that you select the employees with the shortest length of service for redundancy first. Using 'last in, first out' as the sole criterion for redundancy may present discrimination risks, so think carefully before deciding whether this selection system is appropriate for your business.
- A **selection matrix** is a spreadsheet where you rank each employee on a points-based system and rate them against each other on a range of objective criteria, e.g., length of service, education, specific technical skills, relevant experience, etc. If the criteria are subjective, there is a risk of challenge, so be careful when using criteria around performance if you do not have documented performance review records.

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- **Voluntary redundancy** is when a company offers employees the opportunity to resign instead of being made compulsorily redundant. The financial package is usually better than the statutory minimum and is most attractive to more senior or long-term employees.

Step 5. Confirm if a collective redundancy is taking place

To ensure the appropriate process is followed, you will need to confirm if the proposed redundancies will qualify as a collective redundancy. This is where:

- at least 5 persons are being made redundant from an establishment which normally employs between 21 - 49 employees
- at least 10 persons are being made redundant from an establishment which normally employs 50 – 99 employees
- at least 10% of persons are being made redundant from an establishment which normally employs between 100 - 299 employees
- at least 30 persons are being made redundant from an establishment which normally employs 300 or more employees

If yes, please refer to an **HR professional for advice**, as a collective redundancy involves a mandatory 30-day consultation period with trade unions or a staff representative body. The process outlined below is for a non-collective redundancy process.

Step 6. Informing staff they are 'at risk' of redundancy

Consider how you will communicate to employees that a restructuring or downsizing of the business is taking place. Redundancies can impact everyone within a Company, not just those whose roles are at risk of redundancy. The announcement can create uncertainty, and if the communication is not managed well, you may experience low morale and lose staff essential to the future direction of the business. Remember, you are communicating a serious message and must deliver it with tact, sensitivity and empathy throughout the process.

Common approaches include;

- Town Hall-style announcement, whereby the news is communicated to all staff.
- Department-led announcements, whereby a clear script and guidance is provided to each manager, and announcements are made in a coordinated manner to respective teams across the organisation.

Be conscious that any announcement must be made in a clear, transparent and authentic manner whether virtually or in-person.

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The employer is obliged to follow-up with all directly effected employees immediately after the announcement with an in-person or virtual meeting.

When you tell an employee their role is at risk of redundancy, you will invite them to their first consultation meeting to begin the formal consultation process. Employees need time to process that their role is at risk and to prepare for the consultation meeting. However, a long gap between being notified of redundancy and the initial consultation meeting can significantly increase employee anxiety and distress. When planning the consultation process, aim to consult affected employees within two working days of the announcement. You should also notify the employee in writing that their role is at risk.

Refer to template letters and FAQs provided.

Step 7. Consultation meetings

After the announcement, you should inform the employee that the purpose of the consultation period is to deal with any questions they may have, to explore any suitable alternative roles available and to determine whether the employee has any alternatives to redundancy.
You should hold at least one consultation meeting where you will discuss the following:

- The consultation period and proposed process;
- The business rationale for the proposed redundancy and the number/type of roles affected;
- The proposed selection criteria;
- Alternative ideas and submissions from the employee;
- The proposed redundancy payment;
- The timeframe for implementing the proposed redundancy

The consultation process should be robust, meaningful, and documented in writing. Always refer to your plans as proposals and never indicate that there is a pre-determined outcome.

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Step 8. Consider alternative ideas and submissions

You are obliged to consider ideas, suggestions, and alternative proposals to reduce or eliminate the need for redundancies. You must note in writing all alternative suggestions made at the consultation meeting. You do not need to argue with the employee even if you feel their ideas are not workable. All you are obliged to do is listen and consider their suggestions before making a final decision about whether or not you will make their role redundant. Do not suggest that certain decisions are a fait accompli.

Step 9. Inform 'at risk' employees of the final decision

When the consultation process has concluded, you should inform each employee of the decision at an individual meeting and follow it up in writing (refer to templates provided.)

If you have used a selection matrix to select an employee's role for redundancy, the employee has a right to a breakdown of their score and limited information about their position on the matrix relative to other employees in the selection pool. Under no circumstances should the scores of other named employees in the pool be revealed.

You are not legally obliged to facilitate representation for an employee at the meeting where you communicate your decision to make their role redundant.

Step 10. Allow time off to look for new work

Where employees are entitled to statutory redundancy and are subsequently issued their notice, they have the right to time off from work with pay to look for new employment or undergo training during the last two weeks of their employment.
Employers should also consider what supports, if any, can be made available to affected staff. Measures such as the following can help a departing employee:

- CV review and interview preparation;
- Access to the Company Employee Assistance Programme;
- Links to valuable resources for job searching and agencies that can assist

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Step 11. Make the relevant payments

Payments at the end of the process will include but are not limited to the following:

- Notice payment if you do not want the employee to work their notice period;
- Outstanding annual leave or public holiday entitlement;
- Final salary payment, including any bonus or commission;
- Outstanding expenses;
- Redundancy payment

You should always honour your agreement with employees on the timeline for their redundancy payment. Payments can be spread over an agreed timeframe by individual agreement with the employee.

12. Appeals

The employee has a right to appeal your decision to make their role redundant in writing. In such circumstances, the Company must hear the appeal and review the redundancy process. The person who hears the appeal should not have been involved in the redundancy consultation and selection process and should be more senior than the managers who implemented the redundancy programme.

Redundancy is a type of dismissal, and an employee may bring a claim against the Company for unfair dismissal or unfair selection for redundancy. Even when a genuine redundancy situation exists and the Company has a solid business case for the redundany, the WRC will still consider the fairness of the procedures applied and the employer's conduct when considering if an employee was fairly dismissed.

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Redundancy Process Overview

- Consider suitable alternatives to redundancy
- Draft your business case
- Consider the costs of redundancy
- Determine your selection criteria
- Confirm if a collective redundancy is taking place
- Nominate management representatives to make announcements, consult with employees, and hear any appeals
- Inform staff they are 'at risk' of redundancy
- Hold consultation meetings
- Consider alternative ideas and submissions
- Inform 'at risk' employees of the final decision
- Allow time off to look for new work / attend training
- Make the relevant payments
- Follow-up engagement with remaining employees

Disclaimer - these documents are for guidance purposes only. Professional guidance should be sought before use.