



## Watch your step with employees!

When times are tough (and they're getting to be) it isn't surprising that most businesses should be looking for ways to save money. And let's face it, these days employees are expensive. But be careful - getting rid of them could be even more expensive.

And if you're thinking of hiring schoolchildren to plug the gap - watch your step. Better yet, read these articles and let us be your guide through the legal minefield...

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## Hot off the Press!

### Having a Credit Crunch crisis?

Turn on the television or pick up a newspaper, and you can't fail to hear or read about the current economic situation and how bad it is and the impact it's having on both personal and business finances.

In the last two months, we at Pinnacle Development Solutions have seen an increase in the number of companies seeking advice on making redundancies or actually wanting assistance in undertaking a redundancy project.

During these discussions with companies, they have been quite surprised by the amount of process they have to follow when considering making redundancies, even for just one person.

The redundancy process is fraught with danger if not handled correctly and, with the *Credit Crunch* affecting all industry sectors and the number of vacancies falling, employees are willing to fight even harder to save their job and take professional advice where appropriate.

So, here are our top ten tips for things to consider when handling redundancies.



#### 1 Document 'fair' reason

In any dismissal an employer **MUST** document the reason for it and ensure it is for a fair reason. You must make sure that you have the evidence to show a tribunal that a true redundancy situation exists.

#### 2 Justify selection criteria

This is probably the most contentious area of handling redundancies. You **MUST** ensure that the selection criteria you use can be objectively justified. Criteria like '*good employee*' or '*team*

*player* are too subjective and rely on the personal opinion of the manager, and would certainly not stand up in a tribunal or enable you to weight or score the criteria appropriately.

However, criteria based on disciplinary record, absences from work, lateness and performance appraisals are more objective, defensible and rateable.

### **3 Don't discriminate**

You **MUST** ensure that the selection criteria are non-discriminatory, in that they do not make it harder for one group of employee's to score more highly than another. For example, if you did have absence as a criteria, ensure that maternity and disability related absences are discounted.

### **4 Consult employees**

Conducting a fair redundancy procedure is all about consultation. The process must allow for sufficient opportunities to consult your employees in one-to-one meetings or, if making more than 20 redundancies, the ability to consult representatives of the affected employees.

These meetings will allow you to explore the reason for the redundancies, discuss potential alternatives to redundancies and the selection criteria, and so reduce the chances of a potential failure at a tribunal.

### **5 Build a flexible timetable**

Most companies we have advised are under the impression that the process can be done and dusted within a week or so - this **NOT** the case. You must build enough flexibility into your timetable to allow employees to come back for additional meetings when they have further issues they wish to discuss or require further information.

This back-and-forth approach is bound to make the process longer, but failure to allow sufficient time to consult can lead to allegations that the process was a sham and that decisions had been made in advance.

### **6 Gather ideas**

Discuss the selection not only with the employees selected for redundancy, but also with their colleagues who have survived this particular round of the process. These

employees may have ideas of their own that could help reduce the need for dismissals. For example, someone not selected for redundancy may wish to take voluntary redundancy or opt for a job share - which could save someone else's job.

### **7 Follow the procedures**

A fundamental part of any dismissal is to ensure that you adhere to your internal policies and procedures, or at least the statutory dispute resolutions procedures that your internal process should follow.

- You **MUST** invite employees to attend a meeting to discuss the proposed redundancy and give them the right to be accompanied by a colleague or a trade union representative at the meeting.
- You must listen to their concerns and/or issues, and then confirm the outcome of this meeting in writing, detailing their right to appeal against your decision.
- If they do appeal, allow them to meet with another manager (where possible) to discuss their issues and reasons for the appeal. Again, allow them the right to be accompanied.

Failure to undertake any part of this process will automatically make the dismissal unfair and potentially attract an increase in any award made at a subsequent tribunal.

### **8 Look at employment options**

As an employer, you are obliged to consider the availability of suitable alternative work. You should provide employees with details of any suitable vacancies within the organisation, if they exist, and/or allow them sufficient time to seek alternative employment outside of the organisation.

### **9 Air grievances early**

As part of the consultation process, ensure that employees are given the chance to air their grievances before being selected for redundancy. If an employee does raise one of these issues, then ensure you investigate it fully before making the dismissal.

### **10 Check contracts of employment**

Check the contracts for the finer detail - for example, there maybe disputes over unpaid bonuses or future loss of earnings. Check the

rules relating to these schemes to assess whether termination plans and timings trigger other financial entitlements.

- You **MUST** keep a grip on the timetable, as the last thing you want is for employment to continue longer than it should so that an employee is inadvertently still employed on a bonus date.

Although making employees redundant may seem a viable way of reducing costs and ensuring your company can survive the downturn in the economic climate, there are costs associated with making redundancies; not only in the time you have to invest in dealing with

## When children are a mixed blessing...

We are fast approaching the end of June and it will soon be the school summer holidays, when many school children will be looking for summer work to gain experience and earn money, or alternatively seeking to increase their hours within their current part-time job.

Well, as an employer, if you are considering employing a young worker (that is, a person between 13 and school-leaving age), you may want to think again and definitely ensure that you comply with law if do you decide to employ them.

If you are currently employing a young worker or intend to, you **MUST** ensure that you obtain a work permit. *Yes, that's right, a work permit.* This can be obtained from your local education authority and must be completed by the employer and the school, and then signed-off by the parents. Failure to hold a valid work permit could result in your prosecution and a fine of £1,000 for each instance.

As an employer, you must also be aware of the restrictions on the amount of time a young worker can work in your business. The regulations state the following:

### *Under 15*

- Can work two hours on a school day until 7 pm.

them, but also in the cost of professional advice, redundancy payments, the loss of skills from the business and any potential award made against you at a tribunal, which all take time to claw back and come straight off your bottom line.

There are alternatives to making redundancies and, at Pinnacle Development Solutions, we can work with your business to identify ways in which you can make economies or reorganise working patterns, for example, to produce the cost savings you require without having to potentially resort to redundancies.

If you want any more information about this or anything we do, please contact us today by [e-mail](mailto:contact@pds-hr.com) or phone on 0800 907 1015.



- Can work five hours on a Saturday until 7 pm.
- Can work two hours on a Sunday. They **MUST** only work a maximum of 12 hours per week during school term.
- During school holidays, they can increase their hours, but only work a maximum of 25 hours per week.

### *Over 15*

- Can work two hours on a school day until 7 pm.
- Can work eight hours on a Saturday until 7 pm. Can work two hours on a Sunday. They **MUST** only work a maximum of 12 hours per week during school term.
- During school holidays, they can increase their hours, but only work a maximum of 35 hours per week.

### *Health and safety*

Not only do you have to ensure that they are working the correct amount of hours, but also the Health and Safety Executive places even further restrictions on you as the employer as regards employing young workers.

As an employer, you must ensure you provide them with a safe working environment, as you should be doing for all of your employees. This means undertaking a full risk assessment of their potential role and the environment within which they are going to work.

You must ensure that you have identified any potential risks and note the actions you have taken to mitigate those risks. This could include

additional training, provision of additional safety equipment or additional supervision for certain tasks.

You **MUST NOT** let young workers undertake dangerous activities or use dangerous equipment or plant.

**Remember** - as a responsible person, you could and potentially would be held culpable under the Corporate Manslaughter Act if anything happened to them while in your employment.

If you want any more information about this or anything we do, please contact us today by [e-mail](#) or phone on 0800 907 1015.

## Your questions answered

This month's question is linked to the [employment of school age children](#) or, more precisely, ending their employment...

*Should the statutory dismissal procedures be used for employees classed as 'young persons', i.e. between 13 and the end of compulsory school age?*

Well, in theory, yes - there's nothing contained within these regulations that disappplies them for young persons. But, in reality, the vast majority of young workers

- (a) will not have a continuity of employment, so you would not have to worry about unfair dismissal
- (b) are not very likely to bring a discrimination claim, and
- (c) will have a very, very limited financial loss.

In this case, most companies would probably take a cost-benefit view and decide that it would not be worthwhile to go through the full statutory dismissal procedures for those under 16.

However, to treat those under school-leaving age differently from other employees, on reflection, could be potentially unlawful age discrimination; although the compensation for this would probably be limited.

The young worker may get something for injury to feelings (maybe a couple of thousand



pounds), but, provided the employer could show that the dismissal procedure would not have made a difference to the outcome (i.e. they would have been dismissed anyway), there will be no financial losses for ongoing loss of earnings flowing from that.

If you are currently employing young workers and need some advice about how to deal with their employment and may be terminate it, then give us a call on 0800 907 1015 or [send us an e-mail](#) [[LINK TO Contact@PDS-HR](#)] and we will be happy to help.

**Remember** - its not just employment law you need to be concerned about, the Health and Safety Executive also place a number of restrictions on what young workers can or cannot do. Again, we can assist you. And if you have an issue or question you'd like us to cover in a later edition of the newsletter, please [e-mail us](#).

## Further assistance

If you would like further information on any issues raised by this bulletin, or require advice or assistance with any other human resources matters, please call us today on 0800 907 1015 or [send us an email](#).

The information in this newsletter is of a general nature and is not intended to replace professional advice. We recommend you to ask for specific professional advice before taking any action.

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