

Redundancy of Position Guidelines

These guidelines are to assist in the accurate process of removing a position from an organisation for commercial purposes and in terms of the requirements laid out by the ERA 2003

- Remember it is the position that is made redundant. At no stage in the process refer to a particular individual being made redundant.
- The process must be clear and transparent. This means that all parties affected have a clear understanding of what is required and are on equal footing.
- Record every step of the process – all meetings, investigations, decisions looking at financial constraints or technology improvements that have obsoletes roles – everything.
- Throughout the process – keep to all time frames that you (the employer) promise, it must be procedurally fair.
- At this stage where it is likely that the events of the next step have already been reached a meeting should be held with potentially affected staff. This meeting is confidential (because it can be viewed as commercially sensitive to the employer) and in this meeting the staff who are potentially at risk are advised that there is a major concern in the business in that area driven by financial concerns and what the meeting is being called for is to give the staff an opportunity to come up with any ideas in which things may be turned around. This could be anything from costs cutting, 9 day fortnights, no overtime, cut back in regular hours, anything that they can think of. Give them no more than a week and be available for any discussion meantime. The purpose for this is to be seen as fair and transparent in the process. This gives the employees a chance, it doesn't remove the employer's rights to make change and keep things profitable.
- If a decision has been made on financial grounds that a position must be removed, that decision should be recorded in the appropriate meeting, again only refer to the position.
- If there is more than one such position across various offices where it is conceivable that travel is feasible, then it must be considered in the process that any one or more of the positions could be removed.
- If there are only two such positions and travel is possible, then it should be decided that one of these will be removed – either one.
- The next step is to decide on what the criteria would be to select the candidate to retain. A secondary decision is which office the successful candidate would be based in as travel is required either way. So best skills set, most qualified, or longest in role, a process must be made. Even simply making a full job description and then interviewing as if a new position, (but only interviewing the existing candidates) is a good solid and

clear process.

Remember to include your time frames in this decision making process as this will need to be communicated clearly to the affected groups, and then adhered to.

- Once the decision has been made and the process decided upon, a meeting must be held for all staff in the affected areas.
First meet with the directly affected staff, the best way is to call them into a meeting in mid afternoon, explain to the directly affected group exactly what is happening and what process will be followed (with time frames), and why this decision has come about. Then let them go home for the rest of the day, tell them that you will be in touch with each of them personally the next morning to answer any questions that they may have, and that they are welcome to have any support they wish at those meetings (Should be face to face).
- Then other staff in the affected area need to be told - for example “We have made a decision that the company only requires one “X” manager, and we will be doing this process to decide whom of all candidates affected will be successful, no other roles are affected at all. Any questions please talk to “X”, to those affected directly we will be working with individually”
It is best not to have the directly affected people at this meeting as it is too hard for them, also to explain that to this group and ask them to be supportive of their colleagues.
- Of the staff affected, invite feedback and potential ideas from them. This again is getting a chance to show you are a well balanced and fair employer who looks at every opportunity.
- Go through the process and select the candidate you wish to keep, advise them a.s.a.p. once this is done – you want to keep them.
- If there is no possibility for redeployment for the unsuccessful candidate, then they are redundant with the position and get paid out in terms of their contract. Where ever possible always pay them out and enable them to exit as quickly as possible.
- As a good and fair employer you should also consider offering them a chance to have a professional C.V. made up at your expense, plus offer to pay for a counseling session (with an employment counselor of your choice) to help the disestablished employee cope with their loss of position and the stress that that causes to them. This should be done a.s.a.p. to provide the maximum benefit.



Most employees: protection in “restructuring” situations

Who do the arrangements below apply to?

The rules below apply to most employers and employees in restructuring situations.

Note that the rules below do not apply to employees in the following types of employment:

- cleaning services and food catering services in any place of work
- laundry services for the education, health, or age related residential care sector
- orderly services for the health, or age related residential care sector
- caretaking services for the education sector.

These “[specified groups of employees](#)” have different arrangements.

What are “restructuring situations”?

“Restructuring” in relation to most employees is where their employer:

- sells or transfers the business to another person; or
- contracts another business to perform work that was being performed in-house.

What rights and obligations do employers and employees have?

December 2004, new employment agreements must contain an "employee protection provision". An "employee protection provision" is a clause in an employment agreement that aims to provide employment protection for employees in the above restructuring situations and that deals with:

- the process the employer will follow in negotiating with a new employer about the restructuring as it affects employees;
- the matters relating to the affected employees that the employer will negotiate with the new employer, including whether the affected employees will transfer to the new employer on the same terms and conditions; and
- in the event that there is no transfer of employment, the process which will be followed at the time of restructuring to determine what entitlements, if any, are available.

The exact level of protection will depend on the agreement reached between the employer, employees and where present their unions, but the requirement to negotiate such a provision means the parties need to actively think about the possibility of a change of employer situation. Employee protection provisions, like other employment conditions, must be negotiated and agreed.

Employment agreements entered into after 1 December 2004 will have to contain an employee protection provision.

Employment agreements in existence before 1 December 2004 will have to be altered to include an employee protection provision. This alteration must be made by the earliest of:

- 1 December 2005; or
- when the employment agreement is next amended; or
- any restructuring of the employer's business.