

I. Introduction.

Employers can cut jobs. The law allows this. But the reasons given for redundancy must be genuine and the process must be fair. The stronger a trade union is in the workplace, the fairer the process will be.

Redundancy differs from other types of dismissal, such as on medical grounds or performance. This distinction is important because it affects your rights (like suitable alternative employment and redundancy pay).

You need to have at least two years' service before you have any redundancy rights (like redundancy pay).

The FAQs below are not legal or employment advice and for guidance only.

1. What is a genuine/fair redundancy?

A genuine redundancy must be based on the following reasons:

- The business closes
- The business relocates
- The employer decides it needs fewer employees to do the work its staff are employed to do

More information here for [examples specific examples of genuine redundancy situations.](#)

If the redundancy is not genuine, then it's automatically unfair.

3. What are other examples of unfair redundancy?

Here are some examples:

- the reason given for redundancy is bogus: e.g., the job disappears but another colleague is going to be doing the same work
- discrimination: redundancy based on race, sex, disability or some other protected equality characteristic
- redundancy because of pregnancy or maternity leave
- victimisation: made redundant for whistleblowing, speaking out or being a trade union rep
- failure to consult with trade unions
- failure to follow a proper consultation process

The list is not exhaustive. Bear in mind too that the law doesn't consider whether redundancies are "fair" in the everyday sense of the term. It doesn't question political or commercial motives, only whether the reasons are genuine and the process fair.

4. What if I don't think the reason for redundancy is genuine or was fair?

if you think that redundancy wasn't genuine or was unfair, then you can challenge this. You may want to consider a grievance. In consultation with your rep, consideration may be given to an Employment Tribunal claim. **Always consult with your rep** before considering such an option and know the time limit to make a claim – three months from the date the issue you want to complain about arose.

[Find out more information on sham and unfair redundancies.](#)

[Find out more information how to challenge your redundancy.](#)

5. When is the employer supposed to consult with trade unions?

If more than 20 redundancies are proposed, within a period of 90 days at an establishment, then the employer must consult with recognised trade unions. This consultation must be genuine and not a sham. The consultation must be done with a view to seeking agreement.

"Consultation" in a redundancy situation is not the same as an informal chat. The employer must spell out the reasons for redundancy, how it intends to select staff for redundancy, and most importantly, how it will minimise compulsory redundancies. Voluntary redundancy, recruitment freezes, flexible working, are among some of the possible options that employers should be discussed and agreed.

Trade unions can ask to see the business reasons for the any redundancy proposal and challenge them. After the end of consultation, the employer must respond to staff and union feedback, formally, in writing, and show how they have listened to the issues staff and unions have raised.

[Find out more about the consultation process.](#)

6. Can I get redundancy pay?

Yes, if you have at least two years' service and the reason given for dismissing you is redundancy. There are two types of redundancy pay – statutory and enhanced.

Statutory is the bare minimum legal requirement employers are required to pay. Enhanced are more generous schemes, additional benefits that the employer pays not because the law says they must but because they have agreed to do that.

If statutory terms apply, [then you can calculate what you will get here.](#)

If it's enhanced terms, then you need to check your organisation's redundancy policy.

7. What happens if there are fewer than 20 redundancies proposed?

In this case, there is no obligation for collective consultation, but all other considerations still apply. The employer must consult with you personally. The employer must give a legitimate reason for the redundancies. Are the redundancies for a genuine reason? Are they fair? Your trade union rep can still support you challenging a redundancy if you feel you have been treated unfairly.

8. If I am at risk of redundancy, then should the employer offer a post elsewhere in the organisation?

Yes, if you have had at least two years' service. Suitable Alternative Employment (SAE) is an accepted means of reducing the number of compulsory redundancies.

9. What counts as Suitable Alternative Employment?

Typically, jobs at the same grade or one grade lower, when there is enough overlap in job descriptions. Pay protection is often offered for any alternative posts one band below your current one. Local practices vary so you should check the change framework or your organisation's change management policy for what is considered SAE.

10. What if I don't think my post is a suitable alternative? Can I decline it?

This depends on your circumstances. You should let your employer know your reasons. If you decline, you may be dismissed without redundancy pay. You must give a reasonable reason to refuse. There is no legal definition of what a 'reasonable reason' is. It depends on the case. For example, you are offered a role with similar duties to your current one, but the cost of additional travel is prohibitive, you could argue that this is reasonable reason to refuse.

Sometimes the employer offers a trial in a new post for 4-weeks. Refusing a trial can make it harder to make your case that the new post isn't suitable, and you may be dismissed without redundancy pay.

11. If the "suitable" alternative post requires me to move to another location, can the employer force me to do that?

Check your contract. If there is a mobility clause, then your employer can ask you to move and if you refuse then you could be dismissed with no redundancy pay.

But even if your contract has a mobility clause it may not be clear cut. There are examples of tribunals upholding claims of refusing to uphold mobility clauses if the move is too disruptive. Check with your local rep.

12. I am on a fixed-term contract that is due to end. Is that a redundancy situation?

Yes, if you have had at least two-years' service, you should have the usual rights: to be consulted, to be offered alternative employment, to receive redundancy pay if dismissed.

13. I am pregnant. Can I be made redundant?

If you are pregnant but still working, then the employer is not obliged to prioritise you in finding an alternative position, but they cannot dismiss you just because you are pregnant. That would automatically be unfair.

An employer must prioritise finding suitable alternative employment for you *if you are on maternity leave* (i.e., and not just because you are pregnant) and if there are suitable alternative positions. This obligation ends as soon as you return from maternity leave.

[The Protection from Redundancy \(Pregnancy and Family Leave\) Act 2023](#) aims to enhance redundancy protection for pregnant workers and working parents

returning to the workplace after family related leave. It has yet to be implemented in law, however.

14. Is “last-in, first-out” a legal/fair way of making staff redundant?

Length of service can be one measure when selecting for redundancy so technically yes. However, there are age-related discriminatory implications of such practice, which tends to hit younger staff hardest and many employers in the NHS stay clear of this option for that reason. Trade unions take a dim view of it and would challenge it. The stronger the union is in the workplace, the less likely employers will be tempted to use it.

15. Can I be made to apply for my own job?

Yes, you can. But, as with “last-in, first-out”, trade unions take a dim view of this. It’s not accepted as good practice to reduce the need for compulsory redundancies (remember that the point of consultation is for the employers to show how they will minimise these).

If this practice is used, then unions can argue for lower thresholds to apply for your (a more relaxed interview process, a desktop exercise rather than a full application form, and so on). The stronger a trade union is in the workplace, the less likely employers are to make you do this, or insist on the strictest of application processes, if they try.

16. I have a disability. What are my rights regarding suitable alternative employment?

Redundancy on grounds of disability alone is automatically unfair. Your employer must ensure it prioritises finding you a suitable alternative post over a non-disabled employee. In your new role, your employer must carry any reasonable adjustments over from your old role. If they can’t or won’t do this, then these are reasons to decline the alternative role (or challenge your employers to explain why).

17. What about “fire and re-hire?”. Is this legal?

It is. But it’s not a very well-respected practice and so it is open to challenge at the early stages. Even the government is [cracking down on this](#).

If more than 20 persons are affected by this change, then there is an automatic obligation for collective consultation with the unions. If there are fewer than 20

persons affected, then the employer must still consult with individuals. The consultation should be meaningful (see answer to question 5, above).

18. My department is being restructured but there are no redundancies. Is there an obligation to consult?

If changes to terms and conditions are proposed, like location, hours, job descriptions, then there is an automatic obligation to collective consultation with the trade unions, even if there are no dismissals. If more than 20 persons affected, then there must be a collective consultation. Fewer than 20 persons affected, then no obligation to consult collectively but your employer must consult with you personally. Whatever form the consultation takes, it must be meaningful (see question 5, above).