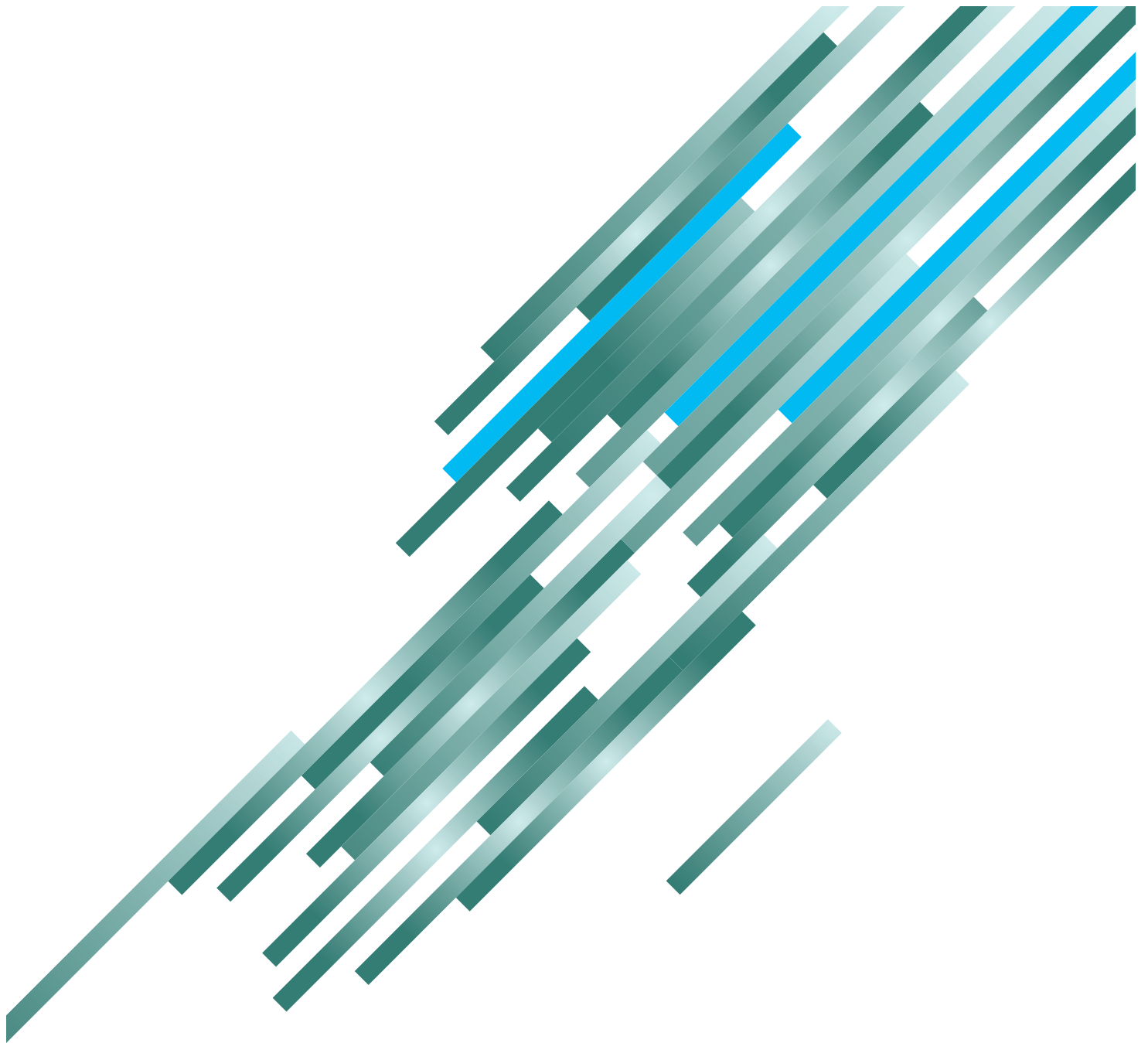


## ***A TOUGH CALL.***

*THE RIGHT WAY TO MANAGE REDUNDANCY.*



***TURNING  
THE CORNER***

***IT'S A SAD FACT THAT REDUNDANCIES ARE PREVALENT IN THE WAKE OF THE GLOBAL ECONOMIC SLOWDOWN. AND WHILE REDUNDANCIES CAN BE INCREDIBLY DISTRESSING FOR EMPLOYEES, THEY CAN ALSO POSE HUGE CHALLENGES FOR YOU – THE EMPLOYER.***

To help you avoid unnecessary employment tribunals, Croner – the UK's leading provider of information, advice and support in the areas of employment and health and safety – is offering you helpful tips and answers to some of the most pressing questions around the redundancy process. Failure to follow the correct procedures can give rise to claims for unfair dismissal from employees. However, with Croner's expert advice and practical support you can be confident that your employee management issues are dealt with effectively and according to current legislation.

There are a variety of issues for you to consider when making redundancies – this guide will help you address concerns in relation to redundancy, selection and payment, along with some top tips to remember.



## CONSIDER THE ALTERNATIVES.

Before deciding to make employees redundant in your organisation, make sure that this is absolutely necessary. Are your problems short term? Could they be resolved by agreeing a period of lay-off with your employees? Are you expecting an increase in work in the near future? Is there any alternative work which can be given to employees? You do not want to have the expense of redundancy only to have to recruit at a later date.

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### **REDUNDANCY SELECTION.**

You must determine the basis on which you will decide who will be made redundant. You may already have a company procedure – check this. You must base your decision on objective criteria, not just opinion. “Last in, first out” is rarely advisable these days and should be supplemented by other factors such as quality of work, absence and output. Score each of the employees you are considering making redundant, giving marks against each topic. It is a good idea to discuss your reasons for selecting the employees with more than one manager or supervisor, so that you have a second opinion. You must be careful not to contravene the law on discrimination here – you cannot select people on the grounds of sex, race, religion, belief, disability, age, part-time/ fixed-term status or certain other unlawful grounds, e.g. if the employee has asserted a statutory right.

You may wish to consider volunteers but bear in mind that those who volunteer may not be the people you want to lose, such as your skilled staff. The final decision about who to make redundant will be yours.

### **THE PROCESS.**

You must consult employees who are at risk of redundancy on an individual basis. Explain to each one why the redundancy has arisen, why the type of job that they do is affected and why the employee has been provisionally

selected for redundancy. Use the reasons for selection and the scoring which you will have previously discussed with the person’s supervisor or manager. At the end of this meeting you should give the employee a written statement of this explanation, a copy of the form used to assess his or her score and then allow the employee some time to think things over. You should then consult the employee again and consider what he or she says to you. If the risk of redundancy remains, you should also discuss all vacancies that you have with the employee and look for opportunities for suitable redeployment.

If, after a further period of consultation and active search for suitable alternative work, the risk of a redundancy dismissal still exists, you should write to the employee to invite him or her to attend a further meeting. The letter must state that the outcome could be that steps will be taken to terminate employment and that the employee may be accompanied and assisted at the meeting by a fellow employee or trade union official. At this meeting you should listen to and consider any representations which the employee may make.

If alternative work is not available and if the employee’s redundancy position is confirmed, you should then notify the employee of this decision and of his or her right to appeal your decision, and give notice of termination of employment.

## EMPLOYEE CONSULTATION.

The law requires employers to consult their employees on a collective basis if they are proposing to dismiss as redundant 20 or more. This means that you must consult with trade union representatives if you recognise a union, or otherwise with

representatives elected by your employees. If you are proposing to dismiss 20 or more employees over a period of 90 days, the consultation period must be at least 30 days. If 100 or more employees are being dismissed, this becomes 90 days.

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### WHAT TO CONSIDER.

You should consider ways of avoiding or reducing the need for redundancy. You must also provide in writing:

- the reasons for your proposals
- the number of employees affected in each group and what they do
- the number of redundancies in each group
- how the people to go will be selected
- when they would be likely to go.

If you do not take these actions, a claim could be made against you at an employment tribunal.

If you are making fewer than 20 employees redundant there is no requirement to consult with the employees on a collective basis as outlined above. However, you should consult with affected employees individually. The length of the required consultation period depends on what is reasonable in each individual circumstance. It is recommended that the consultation period be no less than two weeks and it may well be longer.

If you are making 20 or more people redundant you must notify the Department for Business, Enterprise and Regulatory Reform, using form HR1.

## PAYMENT.

Employees may be entitled to statutory redundancy pay. They need to have completed two years service and the pay is based on age and length of continuous service, up to a maximum of 20 years. The calculation is based on the following multiplier and weekly pay rate for each complete year of employment:

- At the age of 41 and over, 1.5 weeks pay capped at the weekly maximum currently £350 per week (from 1 February 2009)
- At the age of 22 and over but under 41, 1 week's pay capped at the weekly maximum currently £350 per week (from 1 February 2009)
- Employees under the age of 22, 0.5 week's pay capped at the weekly maximum currently £350 per week (from 1 February 2009).

Some employers choose to make redundancy payments in excess of the statutory amounts. Enhanced redundancy pay can be paid to employees if the package mirrors the statutory scheme. In other words, the multiplier, or the weekly pay rate, or both are increased.

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### **NOTICE PERIOD.**

You must pay either the notice period set out in the contract of employment (including reasonable notice for employees with less than one month's service) or statutory notice, whichever is greater. Statutory notice is one week for employees with more than one month but less than two years service and one week per additional year of service thereafter, up to a maximum of 12 weeks. You can ask employees to work their notice, although they can ask you to let them leave early if they get another job. If they do this and you agree to release them you will only have to pay notice up to the last day they worked for you.

Employees must be informed in writing of the reasons for redundancy, the date of dismissal, and details of the package of redundancy payments, including notice. Employees with over two years service also have the right to reasonable time off during working hours whilst under notice of termination of employment on the grounds of redundancy to look for another job or make arrangements for training for future employment. The employer only has to pay the employee up to two-fifths of a week's pay for the time off, regardless of the amount of time taken.

## TOP TIPS TO REMEMBER.

- 1. BEFORE DECIDING TO MAKE EMPLOYEES REDUNDANT IN YOUR ORGANISATION, MAKE SURE THAT YOU HAVE CONSIDERED ALL THE ALTERNATIVES.*
- 2. MAKE SURE THAT YOUR CONSULTATION WITH THE INDIVIDUAL EMPLOYEE IS NOT RUSHED, AS THIS COULD IMPLY THAT THE REDUNDANCY IS UNFAIR.*
- 3. CONSIDER ALTERNATIVE JOBS WITHIN YOUR ORGANISATION FOR THOSE AT RISK OF REDUNDANCY. PROVIDE THEM WITH A LIST OF VACANCIES IF YOU CAN.*
- 4. IF YOU ARE IN ANY DOUBT, YOU MAY WANT TO CONSIDER A COMPROMISE AGREEMENT. THIS INVOLVES GIVING THE DISMISSED EMPLOYEE A PAYMENT IN EXCHANGE FOR THEIR AGREEMENT NOT TO BRING AN UNFAIR DISMISSAL CLAIM. SEE CRONER'S COMPROMISE AGREEMENT SUPPORT FOR MORE INFORMATION.*

If you are in search of a more comprehensive service, Croner's range of services relating to redundancy support can help. These include:

- **Redundancy Support Service:** a practical service that provides you with a detailed breakdown of the steps you need to take and the process to follow
- **Employment Tribunal Representation:** Croner's litigation business has an impressive track record of success in conducting hearings – winning over 85% of all cases that go to a tribunal. Croner's UK-wide team of specialist legal professionals will handle the case from start to finish, including representing you at the hearing
- **Compromise Agreement Support:** If you need to terminate an employee's contract and they agree to the payment of a financial settlement, Croner will provide you with the necessary compromise agreement. It ensures you have the correct legal safeguards in place
- **Managing Redundancy Pocketbook:** a practical source of advice on the issues involved in managing redundancy and a guide to organisational workforce planning.

Should you require more details about Croner's specialist redundancy services, please contact your local Barclays Commercial Bank Relationship Team.

Barclays and Croner are both companies from different organisations and you will not be charged a fee by Barclays for the introduction to Croner. However, if you purchase a product from Croner's range then Barclays will be paid an introducers fee by Croner and details of this fee will be available on request from Croner.

This factsheet is an outline of the position at the time of writing. It offers general guidance only and should not be regarded as a complete or authoritative statement of law.

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