



Redundancy

NEU guidance for members in England & Wales

The purpose of this document is to address the questions that arise when a member of staff is selected for redundancy.

What is redundancy?

Legislation states that redundancy arises where an employee is dismissed because either:

- the employer has ceased (or intends to cease) to carry on business, or
- the employer's requirements for employees to carry out work of a particular kind in the place where they are employed has ceased or diminished (or are expected to do so).

Dismissal on grounds of redundancy is a potentially fair reason for dismissal, so it will be for you to prove that your dismissal is unfair, not on your employer to prove that your dismissal is fair.

In what circumstances may a redundancy situation arise?

It may arise during school or college reorganisations, restructurings, mergers and closures. For example, redundancies may arise where:

- a subject is no longer being taught as part of the curriculum
- a school or college merger will result in one or more members of staff losing their position
- a full-time position is reduced to a part-time position and the post holder is not willing to accept the reduction in hours
- the school or college is in financial difficulties leading to a proposed reduction in staff numbers
- the school or college has experienced falling rolls and, as a result, the budget has been cut (local authority schools are funded on a per pupil basis).

Employers may also apply a practice known as 'bumping', where an employee whose role is redundant is moved into another person's job and that person is dismissed instead.

Why is it important to establish that dismissal is on grounds of redundancy?

It is important to establish that dismissal is on grounds of redundancy because you are not legally entitled to redundancy pay unless you have in fact been made redundant. It is particularly important for those whose employers have become insolvent to establish that they are redundant so that redundancy pay may be recovered from the [Insolvency Service](#).

When may my dismissal on grounds of redundancy be unfair?

Your dismissal on grounds of redundancy may be unfair where:

- your selection for dismissal is unfair
- your employer fails in its duty to find you alternative employment
- your employer fails to follow its own redundancy procedures.



What alternatives might there be to compulsory redundancy?

Some or all of the following alternatives to compulsory redundancy should be considered during the redundancy consultation exercise:

- voluntary redundancy
- resignation
- restrictions on recruitment
- redeployment within the employer's organisation
- voluntary early retirement
- voluntary phased retirement
- job sharing
- voluntary part-time working
- career break
- secondment
- reduced spending
- freezing all vacancies.

Must my employer consult the union in a redundancy situation?

If the union is a recognised union where you work, your employer is legally required to consult your rep/an officer of the union where it proposes to dismiss twenty or more employees across the workforce within a 90-day period. Where this statutory trigger is met, the union will seek to ensure that it is properly consulted and, if not, that you have the opportunity to seek redress through the tribunals. As a matter of good practice the union will seek collective consultation, even where your employer is proposing to dismiss fewer than twenty employees.

Will I be consulted about the redundancy process or will my union rep be expected to inform me of the outcome of consultation meetings?

The key to a fair redundancy programme remains the question of consultation, not just with trade union reps, but with individual employees too. You should be individually consulted, therefore, if your post is selected for redundancy. Consultation is described as a meaningful exchange of dialogue and it must take place at a formative stage, ie before a final decision has been made with regards to the redundancy decision.

If your employer agrees to collective consultation (even where it is not legally obliged to do so), your union rep will normally be consulted on matters such as how to avoid redundancies, or on the criteria for selecting employees for redundancy. In contrast, the focus of individual consultation (to which your union rep or work colleague should accompany you) will be the impact of the process on you personally. For example, if your job has been selected for redundancy, there should be a discussion with you about why it was selected so that you may correct any assumptions about your job which have been made in error.

When will I know that my job has been selected for redundancy?

You should be notified that your job may be 'at risk' of redundancy fairly early on in the consultation process. A letter informing you that your job is at risk should not be viewed by you as a definite decision on the part of your employer to make you redundant. It is simply to alert you to the fact that redundancies may be in the offing if alternative solutions cannot be found (eg if an insufficient number of employees take up the offer of voluntary redundancy).



You will know that your job has been selected for redundancy, that is, a definite decision has been made by your employer to go ahead with redundancies, once your employer has decided on the 'pool' of employees from which redundancies are to be made and has applied a redundancy selection criteria (preferably agreed with the unions) by which individuals within the redundancy pool will be selected for dismissal. Each criterion carries points and the more points you amass, the less likely you are to be made redundant. If some criteria are more important to the school or college than others, they can be given a higher weighting (ie more points can be allocated to them). It is for the employer to select the appropriate skills it wishes to retain, but such selection must be capable of objective justification.

What factors should underpin redundancy selection criteria?

Selection criteria must be:

- objective
- reasonable
- measurable
- non-discriminatory.

What can I do if I object to the way selection criteria have been applied to me?

A good redundancy policy should provide you with the opportunity to meet the redundancy selection panel (with trade union representation) to discuss your scores and any factors you believe your employer has failed to take into account. In Wales, regulations expressly require your governing body to give you the opportunity to make representations and to have regard to any representations you make.

If you are not given an opportunity to challenge your selection, your eventual dismissal may be unfair.

What procedure is my employer required to follow once I've been selected for redundancy?

Once you have been selected for redundancy, you should be given notice of redundancy. Your notice letter (different from your 'at risk' letter) should inform you of your right to appeal the decision to dismiss; by when such an appeal should be made; who will be hearing the appeal; by when your supporting evidence should be submitted; and your right to be represented by a union representative or work colleague at the appeal hearing. If your employer has already provided you with an opportunity to challenge your scores, then the appeal panel may not allow you to raise that issue again at the appeal hearing. Your arguments may be restricted instead to other aspects of the decision to dismiss, such as whether your employer took sufficient steps to find you suitable alternative employment.

Will I be entitled to redundancy pay and, if so, how will it be calculated?

You will have an entitlement to statutory redundancy pay (which is the minimum entitlement) if:

- you are an employee (agency supply teachers will not normally qualify for redundancy pay if the assignment at the school or college comes to an end, but seek advice from the NEU Adviceline or Wales office – details below), and



- you have two years continuous employment with your employer at the date of dismissal (successive employment with different local authorities may count as continuous employment), and
- you have been dismissed by reason of redundancy.
- For information about the calculation of redundancy pay, refer to the union's guidance on redundancy pay and entitlements.

What will happen to my redundancy pay if I am re-employed or re-engaged following redundancy?

The regulations governing redundancy payments for teachers provide that a teacher who is declared redundant, but who subsequently takes up work with another employer listed in the regulations, will not be entitled to a redundancy payment. This disallowance will operate if you take up a post with such an employer after a break in employment of less than four clear weeks plus one day and the offer of new employment is made before the redundant post terminates. Similar arrangements will usually apply to non-teaching staff.

If you are unsure about whether an offer of re-employment or re-engagement will affect your entitlement to redundancy pay, contact the Adviceline in England, or the Wales office, as appropriate.

In what other circumstances could I lose my right to a redundancy payment?

You may lose your right to a redundancy payment if:

- you are offered alternative employment and you unreasonably refuse it
- you leave without working your notice period and without your employer's consent
- you are dismissed for gross misconduct during your notice period.

What should I do next?

If further advice is needed, contact your NEU workplace rep in the first instance. If there is no NEU rep in your workplace, or the peripatetic nature of your employment makes contact with a workplace rep difficult, contact the NEU Adviceline in England on 0345 811 8111 or NEU Cymru in Wales on 029 2046 5000.

Further contact details may be found at: neu.org.uk/contact-us

Further information

NEU

- Guidance about redundancy and redundancy pay can be found at: neu.org.uk
- Redundancy pay and entitlements
- The four-week rule
- Public sector exit payment (cap)
- Public sector exit payment (clawback)

[Redundancy: Your rights](#)

[Advisory, Conciliation and Arbitration Service \(ACAS\)](#)

[Citizens Advice](#)