

PERS PAY AND EMPLOYMENT RIGHTS
SERVICE

Redundancy Tool Kit

A Practical Guide for Small Employers to help them through employment legislation relating to redundancy.



In conjunction with: WYLDA and Voluntary Action Calderdale



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Disclaimer

PERS has taken great care in producing this tool kit to ensure it is consistent with our interpretation of the law and best practice. However, it is offered on the understanding that we are neither solicitors nor legal practitioners and can not accept liability for any errors, omissions or failure to foresee the consequences of adopting any of the terms of this policy; neither can we be held responsible for your interpretation of the contents of this document. You are responsible for updating your own policy in line with future changes in legislation.

This Tool Kit was developed in conjunction with West Yorkshire Local Development Agencies and Voluntary Action Calderdale.

PERS has a complaints and comments procedure. Please contact us for a copy if you wish to make a complaint or comment about our services.

Introduction

Despite the best intentions of all employers, occasionally due to external pressures such as economic downturn, loss of funding or relocation, a set of circumstances arises that necessitates a reduction in staff numbers, to ensure the survival of the downsized organisation. This is a redundancy situation.

The word “redundancy” and/or phrase “being made redundant” are sometimes misused to mean being sacked/ dismissed. This is technically incorrect as redundant means "superfluous, excessive".

In an employment context a redundancy arises when:

- The requirement of the business for employees to carry out work of a particular kind has diminished or ceased.
- The requirement of the business for employees to carry our work at a particular location has ceased.
- The employer has ceased or intends to cease trading/conducting the business which supports employment.

Redundancy is therefore the reason for losing a post or posts, not an individual, but is one of the potentially fair reasons for dismissal.

This Toolkit, devised by PERS, is designed to help you as a small employer navigate through this complex area of employment legislation in a lawful way and by encouraging best practice, ensure there is minimal stress to all employees and threat of disruption to your service users. It has simple, easy to use flow charts; some helpful tips and guidance on negotiating your way through the various stages of a redundancy process; practical model policies and sample letters to be adapted for use by your organisation.

How to Use this Tool kit

The redundancy procedure consists of three separate elements, **all of which must be properly conducted if you are to avoid litigation**. These elements are:

- CONSULTATION
- SELECTION
- DISMISSAL

You must ensure that you follow correct procedures for each of these elements, depending on your own situation. It is important that you look at the 'Definitions' section for details of how to implement the various elements. This Toolkit takes you through each of these procedures.

The Tool Kit is divided into 2 sections:

- 1) general guidance and good practice
- 2) procedures

The procedure you adopt will depend on the number of employees being made redundant and the type of posts they hold. There are 2 categories:

- Selecting individuals from a pool of similar post holders, e.g. 1 admin person from a pool of 3 admin staff.
- Individual post holders, for which funding has been exhausted or withdrawn, e.g. advisor, finance officer, business development manager. It would also be used for the closure of an establishment, when all posts are to be made redundant.

There is an easy to follow timetable and flow chart for each process that guides you through the necessary steps, along with sample letters that can be used to confirm details to employees.

There is also a section on TUPE (Transfer of Undertaking Protection of Employees) detailing when TUPE regulations apply, service conditions and circumstances when redundancy may be appropriate and where to go for more information.

Redundancy Statement/Policy

A redundancy policy is important, so that managers know exactly what they have to implement and employees are aware of what to expect at such a stressful time. It will include a statement of avoidance; an outline of the principles governing redundancies; the rules regarding consultation; the alternative measures that the organisation will consider and implement before contemplating redundancies; the redundancy procedure and employees' entitlements, i.e. severance package. If you do not have one, see PERS Model Redundancy Policy <http://www.pers.org.uk/MPP10.doc>

Service Delivery

Throughout any redundancy situation everyone concerned, whether all employees or managers, regardless of authority and involvement in the process, are expected to observe appropriate rules of confidentiality and to remain professional at all times. The management committee must appreciate that while the situation is very stressful, it is important that service users are not affected and that the service provided maintains its normal high standard. This message needs to be conveyed to staff at the first meeting and be demonstrated by the management committee and director(s), leading by example.

Responsibility for Implementation

In a voluntary organisation the management committee has ultimate responsibility for the implementation of the redundancy policy and procedure. Immediately after realising that circumstances indicate a redundancy situation may arise, they must agree their plan for action including the appointment of an implementation panel, usually with the Director/Chief Officer. They must then communicate this at the first feasible occasion to Trade Union or staff representative/members of staff. (See detailed procedures below).

The management committee may decide it would be less cumbersome to nominate a panel to implement any redundancy proposal. Ideally there should be 3 panel members, not including the chair of the committee. The chair and, if possible, 2 other members of the management committee must be reserved for the appeal process.

If there is a recognised Trade Union, the shop steward should, as a matter of courtesy, be consulted in confidence, shortly before the initial announcement. If there is no Trade Union, then this consultation will involve the staff representative. If neither is present and the proposal will affect less than 20 staff members, consultation should be with staff members directly. See Collective Consultation, Page 6 of this Tool Kit if 20 or more jobs are at risk.

Law and Best Practice

The legislation relating to redundancy is defined by the Redundancy Payments Act, 1975, the Employment Rights Act 1996, the Trade Union and Labour Relations (Consolidation) Act 1992; and case law. This Toolkit and the procedures in it have been designed in such a way that both legal and good practice requirements are met.

Procedures entail:

- informing the employee(s) in writing of the situation and inviting them to attend at least one meeting, along with a mutually acceptable companion/representative, if they so wish
- holding the meeting;
- informing the employee in writing of the outcome of the meeting and of their right to appeal.

However, prior to any redundancy dismissal there must be meaningful consultation and case law indicates that a minimum of 3 meetings, are required to satisfy that requirement. Further, best practice would allow an employee to be accompanied at each meeting and details discussed at each meeting recorded and the employee provided with a copy. This can either be the minutes of the meeting itself or a letter summarising the discussion at the meeting.

Often these situations are so stressful, that employees do not take in everything said at these meetings. By giving a written document after each meeting, outlining the procedural steps taken so far and the topics discussed, an employee can take all the information available to them home to discuss their future employment options with their family and friends. Consequently the employee is better placed to consider alternatives.

Definitions

Accompaniment (at meetings)

Employees must be offered the option to take a Trade Union representative or a colleague of their choice or mutually acceptable companion to the meeting, at which dismissal is likely to take place. This right can be extended to all other meetings during the consultation period, if you want. Employees “at risk” can represent one another if they wish, but this may create a conflict of interest. For this reason you may wish to extend this list to a “mutually acceptable person”.

Affected staff

This group is all those who are potentially at risk of redundancy or who might be eligible to apply for voluntary redundancy. It also includes staff whose work will, or might, be affected by the loss of associated posts or who might be required to cut their hours or amend their job descriptions.

“At Risk”

An employee is “at risk” (of being made redundant) if a proposal indicates that their position may be made redundant.

“Bumping”

It is important to realise that it is a *post* that becomes redundant, not a *person*. Thus it follows that the disappearance of a post does not necessarily mean that the person currently occupying that post is the one to go. In some cases organisations may choose to restructure the organisation so that the person in the redundant post is moved elsewhere and it is another person who loses their job. This is ‘bumping’. However where this happens, you must be clear why the restructuring is necessary and that the selection is based on objective reasons why the original post holder is less dispensable than the person who is selected to leave.

Collective Redundancy (when it is proposed 20 or more staff may be made redundant)

Collective redundancy is a proposal that could result in the dismissal, because of redundancy, of 20 or more staff, within a 90 day period. Advance notice (30 days from dismissal if 20 or more staff affected, 90 days if 100 or more) of these proposals must be given to BERR, now BIS on their form, HR1. A copy is downloadable from: <http://www.insolvency.gov.uk/pdfs/rpforms/hr1.pdf>

Further information

The Department for Business, Enterprise and Regulatory Reform's (now BIS) Redundancy Payments Service (RPS) administers the notification provisions and can give more information. The address to contact is:

The Insolvency Service
Redundancy Payments Office
Cobalt Square
83-85 Hagley Road
Edgbaston
Birmingham
B16 8QG

Helpline: 0845 145 0004

Collective Redundancy Consultation

In the above situation, consultation must involve the Trade Union representative or the elected staff representative. If neither exist, nominations must be sought for the role of staff representative and a secret ballot held (if necessary) to allow collective consultation. It may be necessary to have more than one staff representative, e.g. one for each site, type of post.

The representative must be given reasonable time off to attend meetings with the management committee and then to convey information to staff members, whose comments and questions will be relayed back via the representative. **The penalty for failure to consult in such a case is an order to pay each affected employee a protective award of up to 90 days' pay (with no maximum limit).**

A minimum of thirty days must elapse between the start of consultation and the first dismissal. This rises to 90 days consultation if 100 or more posts are to be made redundant.

Collective consultation is an interactive exchange of ideas which should answer the common areas of concern; however individual consultation is still necessary to discuss personal terms and should run concurrently with collective consultation.

Consultation

The two way communication process informing the employee of the facts of the situation, the likely consequences and then discussing any measures either party can consider that would either eliminate the need for job losses or minimise them.

At this stage redundancy is a proposal and this should be clearly communicated to the employees. Any indication that final decisions about particular job losses have been made before the end of consultation could result in Unfair Dismissal claims at an Employment Tribunal against the organisation.

Issues that may be addressed at consultation:-

reducing hours, changing shift patterns, altering working arrangements, home working, flexible working, pay cuts, vacancies, suitability for alternative jobs, lay off, temporary working etc.

To implement any change of contractual terms, agreement is necessary with employees.

Consultation must include all individuals who are affected by the proposals. That may include members of staff who are not at risk of redundancy.

Lay off

There may be circumstances when staff will be prepared to accept a period of lay-off to cover, for instance, a gap between funding streams. However you should also consider offering redundancy in these circumstances. If an employee is laid off, they retain their continuity of service. If they are made redundant and accept a redundancy payment, they will break their continuity of service even if they are subsequently re-employed with the same organisation.

Notice

All employees with over 1 month's service are entitled to statutory notice prior to the termination of employment as follows:

Service	Notice
Up to 2 years	1 week
2 years	2 weeks
3 years	3 weeks
4 – 12	one week per year up to maximum of 12 weeks

These are minimum notice periods set down in law. Some employees may be entitled to contractual notice, which is longer than the statutory minimum.

Once an employee is serving his/her notice period, they are entitled to reasonable time off to look for another job. Also, if they serve counter notice and leave within this period, they are still entitled to their redundancy payment, but not the rest of their un-worked notice.

Panel

Redundancy policy and decisions are the responsibility of the Management Committee/Trustees and all members share that responsibility. However the committee may decide it should appoint an executive panel to run the redundancy procedures (consultation, selection and termination) and to calculate the severance package. If you have a small management committee, the panel may in practice consist of all the members. You should, however, if at all possible, keep one, two or up to three people from all the initial decision making in order that they can hear any appeals that may be requested at the end of the process.

PILON (Pay in Lieu of Notice)

Pay in lieu of notice can be offered instead of notice, which is worked. This will be tax free if the contract is silent, as it is compensation for breach of contract, not wages. However, if PIL is contractual, then it is deemed to be of wages and hence will be taxed.

Redundancy Pay

All employees with over 2 year's service are entitled to a statutory redundancy payment. The amount depends on age and service and is calculated using a ready reckoner; see PERS Redundancy leaflet No 6; or <http://www.pers.org.uk/leaflet6.pdf> or <http://www.berr.gov.uk/whatwedo/employment/employment-legislation/employment-guidance/page33157.html>

Your contract or redundancy policy may give employees more redundancy pay than statutory "maximum", basing payment, for example, on actual pay.

Since Age Discrimination became law in 2006, all enhanced contractual redundancy payment schemes must mirror the statutory scheme, which gives ½ week for each completed year of service up to age 21, 1 week for each completed year of service between 22 and 40, and 1 ½ weeks at 41 and above. A contractual redundancy scheme could give everyone the same, so long as it was at least 1 ½ weeks per year of service, or could give e.g. one month per year of service under 22, 2 months per year between 22 and 40 and 3 months per year for years when the worker was over 41.

Relevant Date of Termination (RDT)

This is the last date of employment. The RDT is important because it could affect redundancy and notice payments if another full year's service is completed, or if an employee has a birthday, before this date. Any contractual period of notice taken as PILON is not considered service with the organisation, although statutory notice periods would be added.

Retirement

In most circumstances you should not retire someone as an alternative to making them redundant, even if they are over your organisation's normal retirement age. Under current age discrimination legislation you must consult with an employee who is approaching retirement age at least 6 months before they reach the retirement age (65 is the default retirement age unless you have other contractual arrangements) and give them the opportunity to discuss alternatives. If you can foresee a possible redundancy situation in the future, you may be able to retire employees by following due process in advance of the situation arising, but you are unlikely to have sufficient time to apply retirement procedures once an actual redundancy consultation process is in place. Thus employees who are above the retirement age should only be selected for redundancy on the

same objective terms as any other employee in the pool and, if so selected, will be entitled to full redundancy compensation.

You may still offer *voluntary or early* retirement if the terms are attractive enough to warrant employees opting for this.

Selection Matrix

A selection matrix is only used in a redundancy where individuals (one or more) from a pool of similar or identical posts are to be selected for redundancy. It takes the form of a grid with the names of the employees across the top (column headings) and the selection criteria as row headings.

Selection criteria must be objective, e.g. length of experience, qualifications, absence and disciplinary record, flexibility (ability to undertake new tasks as the changes within the business may dictate). If measures of performance or aptitude are to be included, again they must be objective or where subjective must be substantiated by another member of staff and/or recent appraisals.

You must be careful to ensure that your selection criteria are not discriminatory. For instance, if using attendance records, absence due to pregnancy can not be counted. Further, disabled employees (those with a substantial impairment that affects their day to day activities for 12 months or more – see PERS Disability Discrimination leaflet <http://www.pers.org.uk/leaflet13.pdf>) are entitled to reasonable adjustments. One such adjustment in a redundancy situation might be to discount absences relating to the individual's disability.

Selecting people on the basis of length of service (the old 'last in, first out principle) may be discrimination on grounds of age. However, selection on grounds of length of relevant experience (with you or other employers) may be justifiable.

When assessing capability and disciplinary records, you should be clear about whether you are including 'spent' warnings or other disciplinary action. This could potentially be breach of contract or unfair selection.

Absence can be counted in a number of ways. Firstly select a time frame, e.g. 12 – 24 months, then count either the total number of days of sick leave or periods of absence, i.e. 1 day's absence could score the same as a period of 1 week. As long as the same rules are applied to all employees, the method chosen will be deemed fair, given the above proviso for pregnancy and disability. This applies to all selection criteria.

When presenting the selection matrix to individuals, show an individual their scores for each criterion and the scores for all others in the pool, but not their names. Further, an employee must be able to check and challenge these scores, so ensure you give details of any weighting and/or calculation method/points awarding system for each criterion.

Severance Package

This comprises statutory (currently a maximum of £380 per week, this figure increases in February 2011) or contractual redundancy pay, notice pay (if paid in lieu), any outstanding holidays pro rata to the Relevant Date of Termination (RDT) plus any ex-gratia payment. The latter is not a compulsory payment.

Strict liability

Management Committees are responsible in law for holding enough money in reserve to cover their 'strict liabilities' in the event of the organisation folding – that is, the necessary money to cover the cost of winding down the organisation and meeting all liabilities including redundancy and notice payments to staff. **You will be trading illegally if you do not have these reserves in place.** However, if the company is declared insolvent most of these staff liabilities would be paid by the Government Redundancy Fund.

In the case of financial difficulties you may be able to get some help with redundancy payments to staff (but not notice or other debts) from the Fund. In law, the Redundancy Fund may then attempt to recoup this money from individual Trustees although its policy at the moment is only to ask the organisation to pay.

Suitable alternative employment

A suitable alternative position must be similar to the previous job with respect to duties performed, responsibility, authority, rate of pay, hours and shift worked plus location. Further, it must be offered on a 4 week trial basis, with training, to determine the job's and employee's suitability. The alternative job can be rejected by either party but that party must give a good reason, e.g. inability to carry out the new duties or that it is not suitable, different hours, worse pay etc. If the alternative job is rejected, the original redundancy terms stand, as calculated at the termination of the original contract.

The 4 week trial period can be extended if training is required. This must be agreed by both parties at the start of the trial period along with the date the trial period ends. These must be in writing.

Time off (during notice) to look for alternative jobs

See Notice, Page 7.

TUPE

The Transfer of Undertaking Protection of Employment Regulations protect employees whose organisation is taken over by another, or when a contract such as cleaning, or provision of a service by an organised group of workers, is taken away from one organisation and awarded to another. If you acquired some of your workers this way, you have to treat them as if they have worked for you since the start of their employment with the "transferor", so for example, for the purposes of calculating redundancy pay, service before and after the transfer both count.

If there is a transfer both the transferor and transferee should consult with all employees whose jobs are affected. Employees should keep the terms and conditions they had before the transfer (or better).

An employee should **not** be made redundant **because** of a transfer. That would be **automatically unfair** (unless the transferor is subject to insolvency proceedings, in which case some rules under TUPE may be relaxed somewhat). However if 2 organisations merge or an organisation wins an extra contract and is able to make economies of scale they may be able to make redundancies for Economic, Technical or Organisational reasons. More generous terms and conditions that were too expensive for the transferee, is not an ETO reason.

See <http://www.berr.gov.uk/files/file20761.pdf>

Voluntary redundancy

At the first consultation meeting all employees should be asked if they wish to take voluntary redundancy. The terms should be specified to encourage take up, these can be enhanced, but this is not compulsory.

When asking for volunteers, it should be stressed that the organisation requires a specific skill set going forward and those with skills seen to be paramount for the future success of the organisation will be retained, consequently not all requests may be granted.

Employees should be made aware that Mortgage Insurance will usually not pay if the employee's written reasons for dismissal (termination letter) state voluntary redundancy.

Procedure

A dismissal procedure varies depending on the type of dismissal - e.g. discipline, capability, absence - where the main thrust is improving conduct, performance, and attendance respectively. In contrast, in a redundancy situation the emphasis is on consultation and finding ways to minimise the job losses and/or hardship suffered by employees as a consequence of losing their jobs, e.g. researching external employment possibilities, advising of benefits and how to claim these payments.

The procedure is basically the same throughout all redundancies, but there are slight variations depending on the number of employees being made redundant and the type of posts they hold.

Redundancy Situations

There are two potential scenarios that fit within the definitions of redundancy:

- The reduction of work of a particular kind, e.g. overall funding is reduced thus support staff have to be cut. Here one would select individual(s) from a pool of similar post holders, e.g. 1 admin person from the admin team or pool doing similar work. The definition of pool could be across locations, shifts or working patterns, e.g. in the example above the admin team could be spread across two sites and have various different working patterns, but for the purposes of redundancy selection, are considered as one pool. You may need to think carefully about pools.
- The termination of work of a particular kind, i.e. one or several different post(s) for which funding has been exhausted or if all posts are to be made redundant, i.e. the closure of an establishment.

It is also possible to treat the *reduction of hours* or the *amendment of job descriptions* as redundancy where this is caused by a reduction in work and/or a loss of employer's income. In this situation it can be helpful to offer redundancy as an alternative to the reduction or revision of existing posts and to treat the revised arrangement as 'a suitable alternative', if necessary on a 4 week's trial, where this is preferred. This gives employees a measure of choice about their situation and also avoids potential claims for unfair constructive dismissal.

Employees may also claim redundancy if they have been *laid off* or *on short time working* for certain defined periods of time. Most employment contracts do not allow the employer to lay staff off, and doing so without their agreement can be a fundamental breach of contract, sometimes entitling staff to resign and claim constructive unfair dismissal. However staff might agree to lay off or short time working if funding or an increase in demand is expected shortly. This is a complicated area. Please refer to PERS fact sheet "Lay off, Guarantee Pay and Redundancy" for more information. This can be found at <http://www.pers.org.uk/layoff.pdf>

Procedure 1- Selecting individuals from a pool of similar post holders

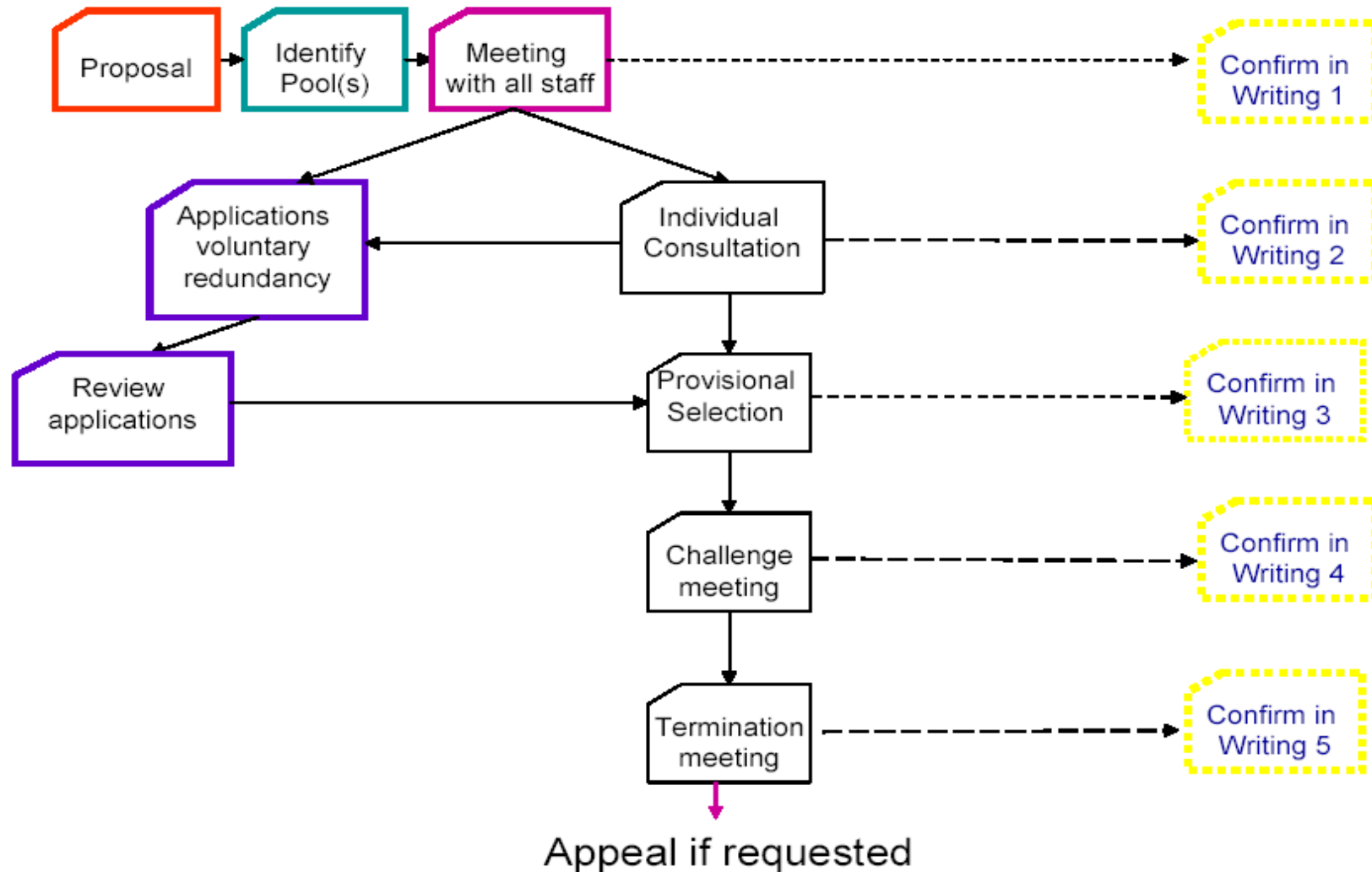
Redundancy Timetable

CONSULTATION/ ACTION	WHO?	TIMESCALE
PLANNING AND BRIEFING Formation of proposal(s), identification of pool(s), appt of panel	Management committee	Week 1 (= 0)
CONSULTATION		
STAGE 1 Date 1 Meeting all staff (TU/staff reps first) <i>Letter 1</i>	Panel, all staff	One week (0 + 1)
STAGE 2 Date 2 Individual Consultation meeting (1 st consultation meeting) <i>Letter 2</i>	Panel and affected staff	Over next 2 weeks (0 + 3)
SELECTION		
STAGE 3 Date 3 Panel meeting to review voluntary redundancy requests & complete provisional selection	Panel	One week (0 + 4)
Date 4 Meeting informing those at risk of provisional selection findings (2 nd consultation meeting) <i>Letter 3</i>	Panel plus at risk staff	
STAGE 4 Date 5 Challenge meeting (3 rd consultation meeting) <i>Letter 4</i>	Panel plus at risk staff	Over next 2 weeks (0+ 6)
TERMINATION		
STAGE 5 Date 6 Formal termination meeting <i>Letter 5</i> NB NOTICE PERIODS START HERE	Panel plus provisionally selected staff	One week (0 + 7)
Date 7 Appeals to be lodged	Selected staff	Within one week (0 + 8)
STAGE 6 Date 8 Appeal hearing <i>Letter 6</i>	Appeal panel plus appealing staff	Within one week (0 + 9)
Add on notice periods as appropriate for individual staff, starting at Date 6		

Note, the time scales indicated are not set in stone and can be increased or decreased.

There may need to be a separate process for interviewing people for suitable alternative posts.

Redundancy Flow Chart – selecting one or more from pool



PLANNING AND BRIEFING

Formation of proposal(s), identification of pool(s)

Once it has become obvious that staff cuts may have to be made for the survival of the organisation, a number of possible options, for instance different combinations of reduced hours and job losses, provided they are realistic, should be put to staff. Include all options considered, to give staff an idea of the range of possible alternatives, and show that these have been considered and if rejected, why.

It is up to the organisation how it does this, e.g. it may wish to convene a separate panel from the management committee. Always remember to keep at least one and if possible three committee members/trustees independent of the first 5 stages below. They are required for the appeal process and must remain as impartial as possible.

The panel should try to set dates for the process, see below, as employees will be most anxious about the time frame. It also helps to clarify the consultation procedure. However, depending on what comes out of the consultation, further investigation may be required and consequently dates may alter. If this happens try to impart as much information as possible to all affected with minimal delay.

NOTES ON LETTERS

These models provide the bones of information to be given. Ensure before issuing one that they are made much more personal. Further, employers should take care to present the information contained in these letters as tactfully as possible without compromising clarity. Wherever possible, you should

- a) detail any ongoing help available
- b) summarise the previous stage and
- c) explain the next (and subsequent) stages.

Remember that when people are under stress, misunderstandings and additional hurt are more easily caused and points may need to be continually repeated and explained.

You must also remain open to suggestions and change throughout the process; where the developing situation requires amendments or additions to the original process, these must be factored in with due care and patience, ensuring that information about the changes is given to everyone.

You need to decide how letters will be distributed, whether by post or through internal mail systems, in order to ensure that everyone, including part-time and home based workers, receives information as quickly as practicable and, if possible, simultaneously. Information should also be given promptly to employees who are off sick, on sabbatical or on parental leave.

CONSULTATION

STAGE 1

Meeting all staff and inviting applications for voluntary redundancy.

In the first instance it is necessary to meet with any elected TU/staff representatives explaining:

- The proposal(s)/options and information about the reasons for them, e.g. financial position
- Measures taken/considered, e.g. overtime ban, short time working
- The numbers and descriptions of the employees the proposal(s) may dismiss as redundant/alter contracts, i.e. the likely pool of staff to be affected.
- The total number of employees of any such description employed.
- How individuals, will be selected. Selection criteria could either be the same as those used in a previous redundancy exercise or suggest some objective measures and ask for comments.
- How the dismissals will be carried out, including the timescale involved.
- The method of calculating the redundancy payments (contractual or statutory)

Date 1: Meeting with all staff, brief as above and add:

- You may be prepared to consider voluntary redundancies, but not all may be accepted as some employees' vital skills are required for the future viability of the organisation.

- The date by which any requests should be submitted (Date 3)
- Submissions should be in writing and to whom they should be addressed.
- Ask for alternative suggestions that would either eliminate or minimise the effects of the proposals.
- Other options/ vacancies

Letter No 1

To be issued as soon as possible after the meeting with all staff and few days before 1st individual consultation.

Date _____

Staff Meeting

On (day, date 1), we presented the current financial position of the organisation and proposed that redundancies may be necessary to ensure the survival of the organisation and the protection of the majority of employees' jobs. We outlined the:

reasons for the proposal(s), (e.g. funding, shortage of work, external factors)
 number of employees/ departments affected and numbers of positions that may face redundancy
 measures we have put in place to reduce the risk of redundancies, (e.g. overtime ban, ban on recruitment, cessation of short time, agency contracts.)
 any alternative work
 selection criteria.

(Either:

a. In the past we have used _____, _____, and _____, and are proposing to do so on this occasion.

or

b. We asked for ideas on what criteria should be used and having taken account of all suggestions will use _____, _____ and _____.)

Time scale.

We are now entering into a period of consultation and envisage that this will last for (number) of weeks. During this period, we will meet with everyone in the affected group(s) to discuss these proposals.

In the first instance we like to invite you to **an individual consultation meeting on (date 2) at (time)**. This is the first of a series of individual consultations further to the staff meeting on (date 1). At this meeting, we'd like you to put forward your suggestions that would eliminate or minimise job losses, e.g. reduction in hours, job sharing, restructure, etc. You may bring a colleague of your choice or a TU representative if you wish.

You may also wish to use this meeting to discuss the implications for you of taking up our offer of voluntary redundancy. All applications for voluntary redundancies must, if possible, be lodged with (named individual 1) by (date 3), although we will continue to consider applications throughout the consultation period if necessary. Anyone who requires any further information before making such a request may approach (named individual 1) at any time. Please note the organisation reserves the right to reject any application for voluntary redundancy, if it feels it needs to retain the specific skills of that individual.

If you have any questions, please do not hesitate to contact a member of the HR team/me. (You should add the names of all the people to whom they may address queries – probably the redundancy panel)

STAGE 2

Individual Consultation (1st consultation meeting)

Date 2:– (A few dates may be necessary if a lot of staff are affected, however, it is best to proceed as judiciously as possible, as this minimises disruption. When setting date(s) remember some time is required to allow staff to absorb and reflect on the proposals and arrange for a companion to accompany them, but not so long that anxiety develops - certainly within 2 weeks of the first meeting.)

Confirm with the employee that:

- they fully understand the situation and are aware of the consultation process and time frame.
- ask if they have had any thoughts on an alternative structure/ideas that would eliminate or minimise the need for job losses.
- define the pool and either re-iterate how the selection criteria will be applied, if using the same selection criteria used in a previous redundancy exercise, or ask for comments on the objective measures outlined at the briefing on date 1.
- how redundancy terms/ compensation package would apply to them
- mention any available alternative work/vacancies and how applications for these posts will be processed
- explain the next steps and time frames
- set a date for the next meeting Date 4.

Letter No 2

To be issued as soon as possible after the 1st individual meeting and a few days before 2nd individual meeting (the at risk information meeting):

Date _____

Individual Consultation

We confirm that at our meeting with you on (date 2), we outlined the reasons for our proposed cut in staff numbers and asked you to consider alternatives that would eliminate or reduce the staff losses. We also discussed the pool and selection criteria.

Further, we advised you of your termination package which would be (number of weeks) *statutory/contractual redundancy pay and (number of weeks) notice pay if you were to be made redundant

(Either:

We discussed current vacancies and their terms and conditions and invited an application for any of them. If successful, the post would be offered on a four week trial, during which both parties may decide if the vacancy was suitable or not. If either party, or both, decided that the post was not suitable, the original termination package would stand.

Or

We regretfully advised you that the organisation has no current vacancies.)

We would now like to invite you to a second meeting on (date 4) at _____. You may bring a colleague of your choice or a TU representative if you wish.

At this meeting we will show you the provisional result of the selection process, including your score on the agreed selection matrix. If this process identifies you as being 'at risk' of redundancy, you will have a further opportunity to comment on and to challenge these findings at a subsequent meeting with ourselves.

We will of course continue to examine any possibility of alternatives to redundancy as they arise and will keep you informed of progress in this matter.

If you have any questions please do not hesitate to ask.

* *delete as appropriate*

SELECTION

STAGE 3

Provisional Selection

Date 3: Review of voluntary redundancy requests. The redundancy panel meets to review any requests for voluntary redundancies and advise employee(s) of the outcome of their request. The panel then revises the proposal(s) in light of voluntary redundancies applications accepted.

Opportunities to apply for voluntary redundancy should remain open throughout the redundancy process but clearly it will help the process if applications can be made and accepted or rejected as early as possible in order to inform the choices for other employees.

Following this the panel makes provisional selection of those to be made redundant

If a selection exercise is still necessary, due to lack of appropriate volunteers or viable alternative suggestions to redundancy, the panel clarifies the selection criteria and compiles the matrix. This is a scoring exercise that will illustrate those at risk.

As before do not take too long to compile the matrix and hold the next set of meetings. This is a particularly anxious time and a few days should be sufficient.

Date 4: Information meeting for those identified as being at risk. This is the second individual consultation meeting with the following agenda:

- review the previous stages
- ask the employee again if they have had any alternative suggestions and if nothing forthcoming, advise the employee that they are “at risk”
- advise this is their opportunity to challenge the scores
Show them their scores on the matrix and clearly indicate how these have been calculated. Advise of all other scores in the matrix, but not individuals’ names. Any one who is not available to go to the meeting must be phoned and informed of the outcome. This would only include those employees on long term sick or other long term absence.
- discuss any alternative vacancies you may have.
- inform of their redundancy entitlement, if they were to be made redundant.
- set up another meeting Date 5

Letter No 3

To be issued as soon as possible after the 2nd individual meeting (the information meeting) and a few days before 3rd individual meeting (the challenge meeting):

Date _____

Provisional Selection

We confirm that at our meeting on (date 4), we presented you with a selection criteria matrix showing you your scores in relation to those criteria and advised you that your post is at risk of being made redundant. We enclose those scores, and an explanation of how they were calculated.

We also advised you of your termination package which would be (number of weeks) *statutory/contractual redundancy pay and (number of weeks) notice pay.

On (day, date 4) you

(Either:

You did not put forward any suggestions that would eliminate or minimise job losses

or

you put forward your views on minimising job losses namely: _____
_____ and (named individual1) will investigate these.)

Finally,

(Either: We discussed current vacancies and their terms and conditions and invited an application for any of them. If successful, the post would be offered on a four week trial, after which both parties may decide if the vacancy was suitable or not. If either party decided that the post was not suitable, the original termination package would stand.or

We regretfully advised you that the organisation has no current vacancies.)

Consequently we'd like to invite you to a further meeting on (date 5) at _____. You may bring a colleague of your choice or a TU representative if you wish. You will have an opportunity at that meeting to challenge the marks you have received; to put forward any alternative suggestions you may have and we will discuss whether any vacancies have arisen in the meantime. The final decision as to whether you will be chosen for redundancy will not be made at that meeting (but at a later one).

If you have any questions please do not hesitate to ask.

* delete as appropriate

Panel

Panel meets and reviews, investigates, implements or rejects any employee suggestions.

STAGE 4

Challenge Consultation Meeting

Date 5: This is the third individual consultation meeting. Discuss:

- the previous stages
- any alternative suggestions
- comments about the scores in the selection criteria/matrix.
- recap any suggestions that have been made and inform these are being investigated.
- if nothing more forthcoming, advise the employee they are still “at risk “and final decisions have not yet been made.
- continue discussions about alternative vacancies in the organisation.
- set a date for the next meeting (Date 6).

Letter No 4

To be issued as soon as possible after the 3rd individual meeting (the Challenge meeting):

Date _____

Challenge meeting

We confirm that at our meeting on (day, date 5) you

(Either:

did not put forward any suggestions that would eliminate or minimise job losses

or

put forward your views on minimising job losses namely: _____
_____ and (named individual1) will investigate these.)

Also, you

(Either

did not challenge any scores in the redundancy matrix

or

challenged your _____ score in the selection matrix,
which (named individual1) will investigate.)

Finally,

(Either:

We discussed current vacancies and their terms and conditions and invited an application for any of them. If successful, the post would be offered on a four week trial, after which both parties may decide if the vacancy was suitable or not. If either party decided that the post was not suitable, the original termination package would stand.

Or

We regretfully advised you that the organisation has no current vacancies.)

Consequently we'd like to invite you to a further meeting on (date 6) at _____. We must warn you that unless you can present valid alternatives, it is possible that this meeting may result in the termination of your post due to redundancy. You may bring a colleague of your choice or a TU representative if you wish.

Should the decision of the meeting be to dismiss you for reason of redundancy, you will still have another opportunity to appeal this decision.

Panel

Panel meets and reviews challenges to selection matrix and employee suggestions. Panel confirms redundant posts.

TERMINATION

STAGE 5

Formal termination meetings

Date 6: This is the final meeting at which the employee will be dismissed if no viable suggestions are presented.

- review the process to date
- ask the employee if they have had any alternative suggestions or comments about the selection criteria. If none, advise that all other avenues have been exhausted and regrettably you have to let the employee go.
- advise of severance package and appeal process.
- Name the individual to whom appeals should be lodged and by when (date 7 - this is usually 5 working days)

Letter No 5

To be issued as soon as possible after the termination meeting:

Date _____

Redundancy Notice

Further to our meeting on (date 6), we regret to advise you that the consultation period has concluded and your post has been made redundant effective from (date 7).

At our last meeting on (day, date 6),

(Either

a) you suggested, which we carefully considered, but have rejected as it's unfeasible because.....

Or

b) you were unable to make any suggestions that would have eliminated or minimised job losses)

Under the terms and conditions of your contract you are entitled to:

(Number of weeks) statutory redundancy pay	£
(Number of weeks) notice pay.	£

The redundancy pay will be paid by *cheque/by BACS. Your notice is *(not) taxed and will be paid by BACS *today/as usual on ____th. You are* (not) required to work your notice so your effective date of redundancy is (date 6 + 1 day)

You are entitled to appeal against this decision and any appeal should be lodged with (name of individual 2) by (date 7). If you chose to lodge an appeal against the decision you have the right to be accompanied at that meeting by a Trade Union representative or colleague of your choice.

Thank for you loyal service to the company and we wish you all the best in the future. *This section should be expanded to include arrangements for references, any outstanding contribution the individual has made etc.*

**delete as appropriate*

STAGE 6

Appeals

Date 8: Formal appeal meetings if required

This will be with a different panel of the management committee and should be held within 5 days of receipt of an appeal, if possible.

Letter 6 - advise if appeal is upheld or not

Procedure 2 – where no selection is necessary,

either because only individual post holders or all staff are affected

This procedure has to be followed where the funding for a specific post has either been exhausted or withdrawn. In such cases that post holder will be at risk of redundancy. It also applies where an entire organisation must close with loss of all posts.

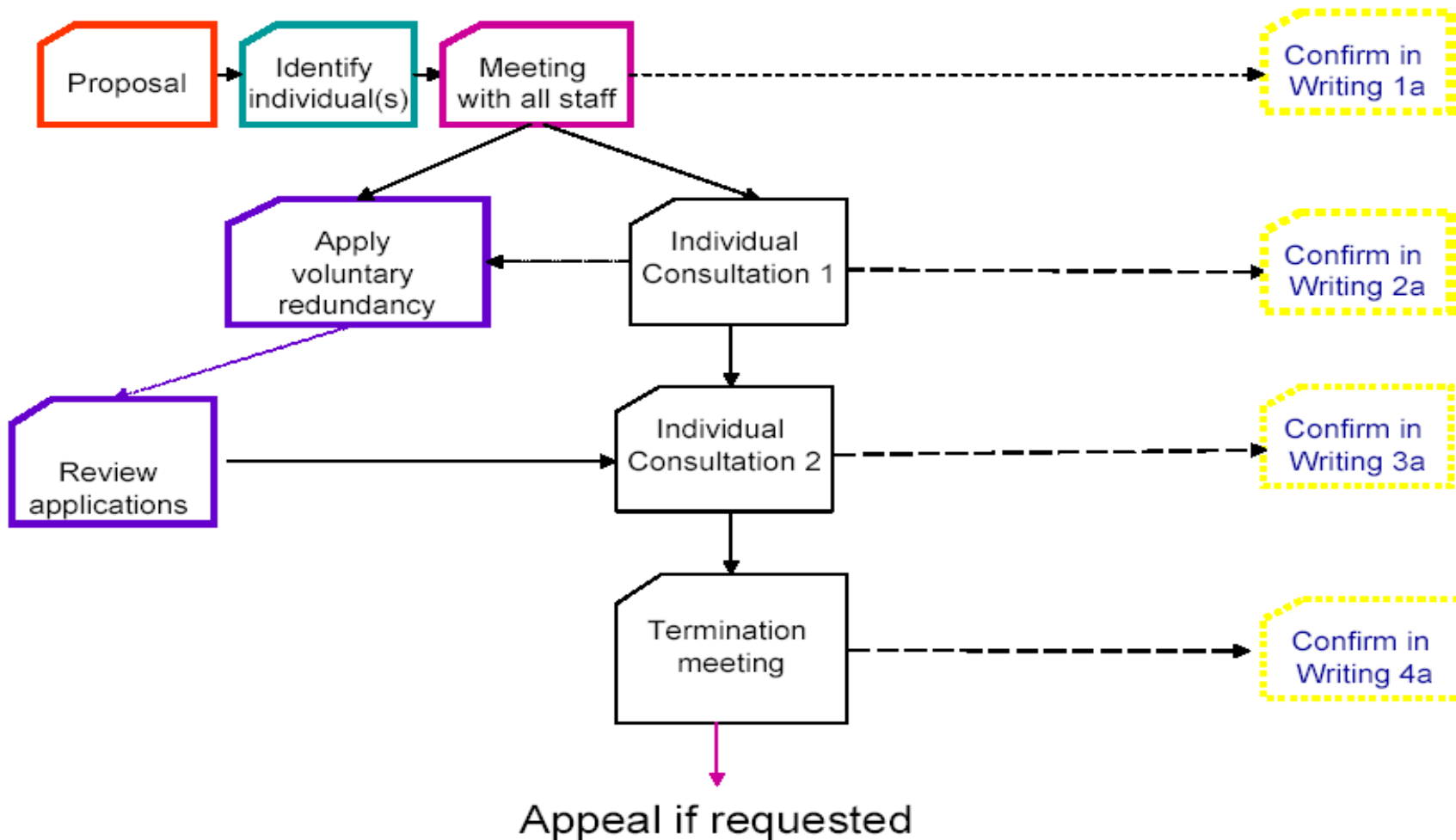
Redundancy Timetable

<u>CONSULTATION/ACTION</u>	<u>WHO?</u>	<u>TIMESCALE</u>
PLANNING AND BRIEFING	Management committee	Week1 (=0)
CONSULTATION		
STAGE 1 Date 1 Meeting all staff Letter 1a	Panel, all staff	One week (0 + 1)
STAGE 2 Date 2 Individual Consultation meeting (1 st consultation meeting) Letter 2a	Panel and affected staff	Over next 2 weeks (0 + 3)
Date 3 Panel meeting to review voluntary redundancy requests	Panel	
SELECTION		
STAGE 3 Date 4 Individual Consultation meeting (2 nd consultation meeting) Letter 3a	Panel plus individual(s) affected	One week (0 + 4)
TERMINATION		
STAGE 4 Date 5 Formal termination meeting Letter 4a NB NOTICE PERIOD STARTS HERE	Panel plus individual(s) affected	One week (0 + 5)
Date 6 Appeals to be lodged		Within one week (0 + 6)
STAGE 5 Date 7 Appeal hearing Letter 5a	Appeal panel plus appealing staff	Within one week (0 + 7)

Note, the time scales indicated are not set in stone and can be increased or decreased.

There may need to be a separate process for interviewing people for suitable alternative posts.

Redundancy Flow Chart – Single post holder or all staff



PLANNING AND BRIEFING

Formation of proposal and initial meeting

Once it has become obvious that staff cuts may have to be made, for the survival of the organisation, a number of possible options, provided they are realistic, should be put to staff. Except where the organisation is closing, options could include an alternative organisational structure, highlighting the positions that may be at risk of redundancy due to finding issues.

It is up to the organisation how it does this, e.g. it may wish to convene a separate panel from the management committee. Always remember to keep at least one (and preferably 3) committee members/trustees independent of the first 4 stages below. They are required for the appeal process and must proceed as impartially as possible.

The panel should try to set dates for the process, see below, as employees will be most anxious about the time frame. It also helps to clarify the consultation procedure. However, depending on what comes out of the consultation, further investigation may be required and consequently dates may alter. If this happens try to impart as much information as possible to all affected with minimal delay.

Where only one post is apparently at risk you should still go through a consultation process with all those affected (see definition earlier in this pack) in order to establish if there are alternative strategies or options that could be implemented. Similarly, if the organisation is to close, staff should be consulted about alternative strategies and ways of reducing the impact.

CONSULTATION

STAGE 1

Meeting all staff & applications for voluntary redundancy

In the first instance it is courteous to meet with any elected TU/staff representatives explaining:

- The proposal and information about the reasons for it, e.g. financial position
- Measures already taken/considered, e.g. overtime ban, short time working
- The numbers and descriptions of the employees the proposal may dismiss as redundant.
- The total number of employees of any such description employed.
- The posts that are suffering from funding shortfalls
- How the dismissals will be carried out, including the timescale involved.
- The method of calculating the redundancy payments (contractual or statutory)

Date 1: Meeting with all staff, brief as above and add:

- You may be prepared to consider voluntary redundancies, but not all may be accepted as some employees' vital skills are required for the future viability of the organisation.
- The date by which any requests for voluntary redundancy should be submitted (Date 3)
- Submissions should be in writing and to whom they should be addressed.
- Ask for alternative suggestions that would either eliminate or minimise the effects of the proposals.
- Other options/vacancies.

Letter No 1a

To be issued a few days after the staff meeting and few days before 1st individual meeting:

Date_____

Meeting all Staff

Further to the staff meeting on (date 1), we like to invite you to an individual meeting on (date 2) at (time). At this meeting on (day, date 2), we'd like you to put forward your suggestions that would eliminate or minimise job losses, e.g. reduction in hours, job sharing, restructure, etc. You may bring a colleague of your choice or a TU representative if you wish.

On (day, date 1), we presented the current financial position of the organisation and proposed that redundancies may be necessary to ensure the survival of the organisation and the protection of the majority of employees' jobs.

We outlined the:

- *reasons for the proposal, (e.g. funding, shortage of work, external factors)
- *number of employees/ departments affected and numbers of positions that may face redundancy
- *measures we have put in place to reduce the risk of redundancies, (e.g. overtime ban, ban on recruitment, cessation of short time, agency contracts.)
- *that selection criteria will not apply in this redundancy exercise as we are looking at specific posts.
- *time scale

We are entering into a period of consultation and envisage that this will last for (number) of weeks. During this period, we will meet with all affected employees to discuss these proposals.

All applications for voluntary redundancy must be lodged with (named individual 1) by (date 3). Anyone who requires any further information before making such a request may approach (named individual 1) at any time. Please note the organisation reserves the right to reject any application for voluntary redundancy, if it feels it needs to retain the specific skills of that individual. If you have any questions, please do not hesitate to contact a member of the HR team/me/(named individual 1).

STAGE 2

Individual consultation 1

Date 2:– (A few dates may be necessary if a lot of staff are affected, however, it is best to proceed as judiciously as possible, as this minimises disruption. When setting date(s), remember some time is required to allow staff to absorb and reflect on the proposals and arrange for a companion to accompany them, however, do not leave it too long as anxiety may develop – certainly within 2 weeks of the first meeting).

Confirm with the employee that:

- they fully understand the situation and are aware of the consultation process and time frame.
- ask if they have had any thoughts on an alternative structure/ideas that would eliminate or minimise the need for job losses.
- how redundancy terms/ compensation package would apply to them
- mention any alternative work/vacancies and how applications for these posts will be processed
- explain the next steps and time frames
- set a date for the next meeting Date 4.

Letter No 2a

To be issued as soon as possible after the 1st individual consultation meeting and a few days before 2nd individual meeting:

Date _____

Individual Consultation 1

We confirm that at our meeting on (date 2), we outlined the reasons for our proposed cut in staff numbers and asked you to consider alternatives that would eliminate or reduce the staff losses.

On (day, date2) you

(Either:

did not put forward any suggestions that would eliminate or minimise job losses

or

put forward your views on minimising job losses namely: _____

_____ and (named individual1) will investigate these.)

We also advised you of your termination package which would be (number of weeks) statutory redundancy pay and (number of weeks) notice pay.

Finally,

(Either:

we discussed current vacancies and their terms and conditions and invited an application for any of them. If successful, the post would be offered on a four week trial, after which both parties may decide if the vacancy was suitable or not. If either party decided that the post was not suitable, the original termination package would stand.

or

we regretfully advised you that the organisation has no current vacancies.)

Consequently we'd like to invite you to a further meeting on (date 4) at (time 2). You may bring a colleague of your choice or a TU representative if you wish.

If you have any questions please do not hesitate to ask.

Date 3: Panel reviews requests for voluntary redundancy

The redundancy panel meets to review any requests for voluntary redundancies and then advises employee(s) of the outcome of their request(s). It then revises the proposal in light of granted voluntary request(s). Also, once the initial individual consultation meetings are complete, the panel can review any alternative suggestions and if nothing viable, proceed with placing individual post holders "at risk".

Also the panel needs to reassure the other staff members, who were involved at the first meeting, as soon as possible that their jobs are not at risk.

STAGE 3

Individual Consultation Meeting 2

Date 4: This is the 2nd consultation meeting. Here employees are put "at risk". The meeting should cover:

- a review of the previous stages
- asking the employee again if they have had any alternative suggestions. If nothing forthcoming, advise the employee that they are "at risk".
- a discussion about any alternative vacancies you may have.
- set up another meeting Date 5.

Letter No 3a

To be issued as soon as possible after the 2nd individual consultation meeting and a few days before 3rd individual meeting:

Date _____

Consultation Meeting 2

We confirm that at our meeting on (date 4), we advised you that your post is at risk of being made redundant.

We also advised you of your termination package which would be (number of weeks) statutory redundancy pay and (number of weeks) notice pay.

On (day, date 4) you

(Either:

did not put forward any suggestions that would eliminate or minimise job losses

or

put forward your views on minimising job losses namely: _____

_____ and (named individual1) will investigate these.)

Finally,

(Either:

we discussed current vacancies and their terms and conditions and invited an application for any of them. If successful, the post would be offered on a four week trial, after which both parties may decide if the vacancy was suitable or not. If either party decided that the post was not suitable, the original termination package would stand.

or

we regretfully advised you that the organisation has no current vacancies.)

Consequently we'd like to invite you to a further meeting on (date 5) at _____. We must warn you that unless you can present valid alternatives, it is possible that this meeting may result in the termination of your post due to redundancy. You may bring a colleague of your choice or a TU representative if you wish.

If you have any questions please do not hesitate to ask.

Panel

Panel meets and reviews, investigates, implements or rejects employees' suggestions.

STAGE 4

Formal Dismissal meeting

Date 5: This is the final meeting at which the employee(s) will be dismissed if no viable alternative suggestions are presented.

- review the process to date
- ask the employee if they have had any alternative suggestions
If none, advise that all other avenues have been exhausted and regrettably you have to let the employee go.
- advise of severance package and appeal process.
- name the individual to whom appeals should be lodged and by when (date 6 – this is usually 5 working days)

Letter No 4a

To be issued as soon as possible after the 3rd individual meeting:

Date _____

Redundancy Notice

Further to you meeting on (date 5), we regret to advise you that the consultation period has concluded and your post has been made redundant effective from (date 5 + 1).

At our last meeting on (day, date 5),

(Either

a) you suggested, which we carefully considered, but have rejected as it's unfeasible because.....

or

b) you were unable to make any suggestions that would have eliminated or minimised job losses)

Under the terms and conditions of your contract you are entitled to:

(<u>Number of weeks</u>) statutory redundancy pay	£
(<u>Number of weeks</u>) notice pay.	£

The redundancy pay will be paid by *cheque/by BACS. Your notice is *(not) taxed and will be paid by BACS *today/as usual on 00th. You are *(not) required to work your notice so your effective date of redundancy is (date 5 + notice period, if is to be worked).

You are entitled to appeal against this decision and any appeal should be lodged with (name of individual 2) by (date 6). Further, you are entitled to bring a trade union representative or colleague of your choice to this appeal meeting.

Thank for you loyal service to the company and we wish you all the best in the future. *This section should be expanded to include arrangements for references, any outstanding contribution the individual has made etc.*

*delete as appropriate

STAGE 5

Appeals

Date 6: Formal appeal meetings if required

This will be a different panel of the management committee and should be held within 5 days of receipt of an appeal.

Letter 5a - advise if appeal upheld or not

Other Documents Provided with this Tool Kit

Redundancy ER leaflet

Redundancy Model Policy

Further Information

ACAS Advisory Booklet – redundancy handling
(www.acas.org.uk/index.aspx?articleid=747)

BERR Redundancy: a simplified guide
<http://www.berr.gov.uk/files/file47510.pdf>

BERR Ready Reckoner for calculating number of week's redundancy pay:
<http://www.berr.gov.uk/whatwedo/employment/employment-legislation/employment-guidance/page33157.html>

Redundancy Consultation & Notification Guidance URN No: 06/1965Y
<http://www.berr.gov.uk/whatwedo/employment/employment-legislation/employment-guidance/page13852.html>

BERR Redundancy entitlement statutory rights: a guide for employees URN No: 09/576

[TUPE Employment Rights on the Transfer of an Undertaking](http://www.berr.gov.uk/files/file20761.pdf) <http://www.berr.gov.uk/files/file20761.pdf>

Business Link – Making an Employee Redundant
<http://www.businesslink.gov.uk/bdotg/action/layer%3Fr.l3%3D1074019927&r.l2%3D1073876974&r.t%3DRESOURCES&r.i%3D1073792402&r.l1%3D1073858787&r.s%3Dm&topicId%3D1074019927&qid=redundancy+&coll=sponsoredLinks&Z=1>

Redundancy and insolvency: a guide for employees
<http://www.insolvency.gov.uk/pdfs/guidanceleafletspdf/guideforemployees.pdf>

TUC – Facing Redundancy
http://www.tuc.org.uk/tuc/rights_redundancy.cfm

Developed by Pay & Employment Rights Service

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