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REDUNDANCY - WHAT ARE YOUR RIGHTS AND OBLIGATIONS

The topic of redundancy is very relevant at the moment.

As with all things in employment law, there are rights and obligations which need to be taken into account when dealing with a potential redundancy issue.

A very important aspect of redundancy which is sometimes overlooked, is that it is the position that is made redundant and not the person. In other words, a redundancy arises through no fault of the worker. Whilst obviously very distressing for the worker, it should not be seen as any reflection upon the worker's performance or attitude etc.

As in all things related to employment law, an employer must act fairly and reasonably when considering redundancies. This concept of "fair and reasonable" is a constant theme throughout employment law.

There are no hard and fast rules as to what must be done because each situation is unique.

Initially the employer must advise any workers of the possibility of redundancy. In most cases, there will be a need for the employer to consult with the employees about the possibility of redundancy before any final decision is made.

In relation to any individual, the following questions serve as a useful guide:

1. Whether any other person could have been selected for redundancy?
2. Whether the particular person could be redeployed within the business?
3. Whether the particular person could be retrained for any other position within the business?
4. Whether in the overall circumstances, it is fair to choose a particular individual instead of any other person?

In most situations, the employee should have an opportunity to meet face to face with the employer to discuss those issues.

Obviously in some circumstances, the need for consultation will not arise. For example, if there is one person doing one particular job which becomes redundant, then there is no point discussing all of these matters with that person.

As is normal in employment law, a final decision should only be made after the consultation and meeting take place.

As a final matter, it is important to note that redundancy cannot be used as an excuse to dismiss somebody for poor performance.

As an employer, if you have a non-performing worker, then you cannot use redundancy as an excuse to dismiss.

As an employee, you should be very suspicious of any situation where you have been criticised for your work performance and then shortly afterwards the boss talks to you about redundancy.

- The next newsletter will cover the topic of *Justified Warnings— What Should a Reasonable Employer Do*—by Nicola Goss