



What process should be followed when making an employee redundant?

Redundancy is a situation where an employer terminates an employee due to the fact that the position filled by that employee is no longer required to the needs of the employer. It is the position itself that is redundant and the decision to make a position redundant should have nothing to do with the particular employee who is filling that position.

A redundancy can occur for economic reasons (for example, an off-peak season when there is less work), financial reasons (where the employer is having financial difficulty and is required to keep their costs down) or because of genuine changes to the company's operations. When an employee's job is terminated by way of redundancy it should not be a reflection on that person's ability to do the job or for other personal reasons. Employers and employees must act in good faith towards each other in all situations, including redundancy situations.

In determining whether a redundancy is genuine and fair, there are two issues to look at: the reasons for the redundancy, and the procedure used to carry out the redundancy.

The legislation requires employers who are proposing redundancies to consult the employees concerned. The employer must give the employees access to relevant information and an opportunity to comment on that information before the final decision on the redundancy proposal is made.

There are also additional requirements for the process to be followed in restructuring situations where an employee's work will be taken over by a different employer. Employees who do certain catering, cleaning, caretaking, laundry or orderly work have the right to transfer to the new employer on their existing terms and conditions of employment. For other employees, their employment agreements will contain a clause describing what steps the employer will take to protect them in these restructuring situations. [Click here](#) for more information on employment rights and obligations in these restructuring situations.

If the employment agreement contains a process to be followed in redundancy situations, then the employer must follow this process.

A fair process could also include aspects such as:

- Plenty of notice about any redundancy proposal
- An open minded approach to alternatives to redundancy, such as redeployment
- The provision of counselling and career advice

Compensation for being made redundant is generally not a legal requirement, but it can be negotiated between the two parties. Some employees (who do certain catering, cleaning, caretaking, laundry or orderly work) can ask the Employment

Relations Authority <http://www.era.govt.nz/> to decide what redundancy entitlements they should receive when their employment agreements do not cover redundancy entitlements in restructuring situations.

If an employee believes that they were made redundant for reasons that were not genuine or that the redundancy process was unfair, they can challenge it by raising a personal grievance.

Ref: Department of Labour www.dol.govt.nz