

The Journey Back to the Workplace Workforce Planning



Redundancy

In the current climate restructuring, review of resource requirements and the review of terms and conditions of employment are to the fore of most organisational needs in the Community and Voluntary sector and with that comes the increased and real risk of discontent and increasing internal disputes and external employment claims, particularly in the areas of pay, redundancy, unfair dismissal and discrimination / equality. It is on this basis that Employers should ensure they approach any and all changes in an informed manner, and with caution.

With workforce planning now seen as a necessity by most HR professionals, Employers are seeking to ensure the correct Organisational structure is in place with the required skills and experience to enable the Organisations strategy to be effectively delivered. Last week we covered the key steps of adopting a reorganisation and restructuring framework by highlighting the considerations necessary to ensure your Organisational structure is fit for **future purpose**.

A natural progression from this type of framework and in the context of workforce planning is the process of redundancy. As we enter a recessionary period the expected rate of unemployment will likely be a high proportion of the current 26.1% (Covid adjusted) rate by the end of the fiscal year, much of which will be as a result of redundancy processes. Outlined below are the key steps and salient points to be considered when considering redundancies.

Key Steps in a Redundancy Process

1. Organisation (Business) Case

The first step of any redundancy process is to establish your Organisation (business) case.

In order to do this in a planned way it is essential to first understand the driving force behind this type of process. From an Organisational point of view this may be constructed from financial limitations in terms of restricted funding in the Community and Voluntary sector, reorganisation and restructuring requirements or changes to service delivery. An

examination of the Organisation's needs, the impact of changing Community and Voluntary demographics and the financial position of the Organisation will support the establishment of a business case relating to any proposals that places Employee(s) at risk of redundancy.

Under the Redundancy Payments Act, 1967 there are five grounds of redundancy and any proposed changes to your workforce and the rationale driving the Organisations case for these changes should sit on top of one or more of the grounds of redundancy. It is therefore essential that HR Practitioners and Leaders alike do their due diligence in establishing genuine reasons for redundancy to ensure, where for example, it is led by the financial position of your Organisation the Organisational case in all its reasoning can withstand challenges.

Even at this early stage it is of paramount importance that the substantive nature of an Organisations business case is considered, genuine and built on solid facts and figures to mitigate against any risk of challenge in a third-party forum.

2. Developing an Action Plan

With the Organisational case developed HR professionals must prepare an action plan of the process.

Clear and transparent communications are essential to the success of a redundancy process. HR professionals need to develop a communications plan that will strengthen the Organisational case ensuring there is no ambiguity when it comes to communicating organisational challenges and proposals that may impact the workforce.

Congruent to the success of the process is early identification of any risks associated with redundancy. Best practice will dictate a risk register being developed which identifies any challenges that may present throughout the implementation stage of the project. As the greatest impact will be felt by your workforce it is essential that HR play a pivotal role in this process from the analysis and development right through to the implementation stage and timings thereof.

Organisations in the Community and Voluntary sector must prepare, in some instances, to a collective redundancy process being needed and it is therefore essential that HR professionals lead out in the planning of this process to ensure compliance in terms of the election of employee representatives, notification to the Minister and the timings of the mandatory information and consultation period, all of which should form part of the project plan to ensure your Organisation is legally compliant.

3. Selection for Redundancy & At-Risk Process

Having demonstrated that a genuine redundancy situation exists, prepared your communications and project plan, it is essential to ensure that the procedures used for selection of redundancy are transparent, objective and fair.

If the Organisation has used an agreed selection procedure or has used a specific one in past redundancy situations the Employer will need to have a specific reason in departing from this agreed selection procedure or custom. To fairly select an Employee(s) role for redundancy, the Employer should first establish which position/positions may become redundant. Having established that certain positions may no longer be required, Employees of that category must be considered against the criteria for selection.

Although a redundancy situation exists, an Employee may have grounds for complaint if the manner of the selection for redundancy was unfair so particular attention should be

given to grounds of discrimination under the Employment Equality Acts or any protected grounds such as pregnancy.

4. Consultation & Engagement

Following a presentation of the challenges faced by your Organisation, the proposals of changes communicated and fair selection of those placed at risk, the next stage of the procedure is to engage in a consultation period.

The consultation period should not be treated as a tick the box exercise, rather, meaningful engagement should be encouraged on both sides. From project planning there will be a recognition of timeframes in a collective process and what that means in terms of the consultation period. As many meetings as necessary within this timeframe should take place to ensure that the challenges of the Organisation are discussed, the business case examined and any and all alternatives that may mitigate against the risk of redundancy are assessed and considered.

The decision to make redundancies should always be the last resort which is why it is essential to explore all other suitable alternatives prior to initiating redundancies during the consultation period. One of the conditions looked at in determining whether a dismissal by redundancy is fair or not, is whether the conduct of the Employer was reasonable so HR professionals should ensure the compliance in this area throughout the consultation period.

5. Closing the Process

Following the consultation period, the Organisation and HR in particular will have a full understanding as to the status of the proposals and whether a decision to implement redundancies can be supported.

Where meaningful engagement and good participation has occurred at the consultation stage an Organisation should at this point be fully informed and comfortable in making a decision on the proposals. Where a decision to implement redundancies is taken HR professionals must ensure continued compliance in any written notification of dismissal taking account of statutory/ contractual notice periods, appeal mechanisms and any statutory redundancy payments. HR will play an integral role in offboarding the workforce so consideration may be given at this point to outplacement services or ex gratia payments (insofar as is possible).

With a threat of third-party involvement ever present in a redundancy process it is critical that HR professional are front and centre throughout this process from the inception of the Organisations case, through to the engagement of best practice and legislatively compliant practices, all of which are for the betterment of the Organisation and to reduce or mitigate the risk of a complaint.

Disclaimer - The information in this section is provided to assist Employers on the implementation of HR and Employment Law practices and must be read in that context and should not be interpreted as a legal definition of any of the information provided. Always ensure you receive expert advice in respect of the individual circumstances of a redundancy process.

For further information or advice, please contact the designated HR & Employment Helpdesk at thewheelhrhelpdesk@adarehrm.ie or via telephone on (01) 5394661 Monday – Friday 9.00am- 5.00pm

