



SNIFE

Employer Guide

Redundancy & Temporary Lay Off

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**Getting advice: Contact the IR department
at the SNIPEF offices at info@snipef.org**

REDUNDANCY

What is the meaning of redundancy?

Redundancy has two different meanings for the purposes of UK employment law. One to establish entitlement to redundancy payments and the other for the right to be consulted. For entitlement to redundancy payments, under the Employment Rights Act 1996, redundancy arises when employees are dismissed because of:

- Closure of the business as a whole
- Closure of particular workplaces
- Employees are surplus to requirements, or diminished requirements for employees to carry out work of a particular kind.

Measures you should take before considering redundancies

You must ensure that all avenues have been exhausted which will reduce or avoid the potential for redundancies. Such measures include:

- natural wastage
- restrictions on recruitment
- redeployment to other parts of the organisation
- reduction or elimination of overtime
- temporary lay off
- seeking applicants for voluntary redundancy

Only after having considered the above options and having calculated that redundancies will be unavoidable should you then decide to evaluate the course of action for redundancies.

Selecting employees for redundancy

The selection criteria used to measure who and how many employees are being selected for redundancy must be fair, consistent, objective and non-discriminatory. 'Last in – First out' is not a fair selection criteria as this is now discriminatory against the employee's age (Age Discrimination Act 1st October 2006). Failure to follow appropriate and reasonable procedures could lead to claims of unfair dismissal.

The selection criteria that you may wish to follow include the following:

- skills and experience
- qualifications
- standard of work performance & aptitude for work
- efficiency of work
- attendance
- disciplinary record

For an example of a redundancy selection matrix see the Appendix 2: Redundancy selection matrix content examples.

Consultation, notification & disclosure of information

Consultation between all parties involved ensures that the opportunity to explore all options is made available as soon as is practicable and ensures an opportunity is being provided for employees to suggest possible alternative options to avoid redundancies. By doing this, fear, misunderstanding and conflict can be reduced. Furthermore, providing an opportunity for facilitation also shows that you are an employer who is committed to the welfare of your employees. The consultation process should precede any announcement of redundancies or notices of termination. To ensure you are following the correct procedure you can use the employer check list in Appendix: 1 Minimum redundancy procedure - your check list.

Consultation does not have to end in agreement, but it must be properly carried out with a view to reaching agreement, including ways of avoiding the redundancies or minimizing their effect. Please see Appendix: 4 Draft letter: Invite to Consultation meeting.

At the start of the consultation, you must provide written details of:

- The reasons for the proposed redundancies;
- The number and categories of employees involved;
- The total number of employees in these categories employed at the establishment;
- The proposed method of selection of those to be dismissed;
- How you will work out redundancy payments;
- The proposed method of carrying out the dismissals including the time scale.

Invite all employees potentially at risk of redundancy to an individual consultation meeting and give them an opportunity to discuss in the meeting the reasons for potential redundancies, the criteria, their scores in the selection process, and be given an opportunity to make representations that the application of the criteria results in unfairness to them or if they feel that there has been a mistake in the application of the criteria.

It is good practice to document discussions and outcomes of the meeting. Employers should allow the employee to bring a trade union representative or work colleague to the formal individual consultation meeting in the usual way.

There is not an exact time frame for how long the consultation should last for with employees. However, consultation should be entered into with individual employees as soon as possible and over a period which is fair and reasonable. Failure to consult would be unwise as it could put you at risk of unfair dismissal claims.

You are under no legal requirements to inform and consult employee representatives in cases falling below 20 redundancies. A collective redundancy situation arises when you propose to dismiss 20 or more employees as redundant. You are required to inform and consult appropriate representatives of employees who may be affected by proposed collective redundancy dismissals, or by measures taken in connection with them. You must notify the union of your intentions for proposed redundancies (Unite the Union is recognised by SNIPEF for negotiating purposes) and also notify The Department of Employment by completing the HR1 'Advance Notification of Redundancies' Form prior to the dismissals and give the following advance notice:

- when 20-99 employees are involved, notice should be given 30 days before the first dismissal takes place where these will take effect within a period of 90 days or less.
- when 100 or more employees are involved, notice should be given 90 days before the first dismissal where these are to take place within a period of 90 days or less.

Statutory redundancy procedure

The standard dismissal procedure consists of 3 steps which you **must** follow:

- Step 1: Write to the employee to inform him of the reason for the redundancy and that he is invited to a meeting to discuss this. Inform him that he has a right to be accompanied to the meeting by either a union representative or a work colleague. Please see Appendix 5: Draft letter: Invite to redundancy meeting with possible termination.
- Step 2: Hold a meeting with the employee regarding the redundancy. Adjourn to consider the options which are discussed in the meeting. Notify the employee of the decision being made and that he has the right to appeal.

Follow this meeting up by issuing a letter with the information (contact SNIPEF IR [here](#) for template letters).

- Step 3: Where requested, arrange and hold the appeal meeting following the same procedures as Step 1 and 2. State that the decision of the appeal meeting will be final.

To ensure you are following the correct procedure you can use the employer check list in Appendix: 1 Minimum redundancy procedure - your check list.

Notice of termination

Employees with at least 1 month's continuous service must be given the following minimum statutory notice:

Service	Entitlement
Less 2 years service	1 week
More than 2 years service but less than 12 years	1 week for each complete year of employment
12 years or more	12 weeks (maximum required)

Accrued holiday pay

Your employee must receive payment for untaken holidays. For every week your employee has been employed with you they receive a proportion of the annual entitlement.

As per the SNIJIB National Working Rule 4, your employee must receive 31 days holiday in the holiday year but if they only work half of that year they will only be entitled to half (15.5days). Additionally, if they have taken 5 days holiday from that year they will then only be entitled to the 10.5 days holidays untaken.

How to calculate holiday pay

Every week your employee is employed in the current holiday year, he will accrue 0.596 days of a holiday ($31 \div 52 = 0.596$). When he leaves it is the total accumulated for the period minus holidays he have already taken.

Example: ($40 \text{ weeks} \times 0.596 = 24 \text{ days} - 11 \text{ days holiday already taken} = 13 \text{ days payment for untaken holiday}$)

How to calculate statutory redundancy payments

To receive a redundancy payment your employee must have been employed for a continuous period which is more than **2 years** and have been dismissed by reason of redundancy.

The payment will depend on their:

1. continuous length of service;
2. continuous service in relation to a particular age band;
3. gross week's pay.

Service is capped at the **20 years** (based on your employee's last 20 years of service). The formula for calculating pay is below:

Age category	Number of weeks pay
Up to the age of 21 years you receive	½ a weeks pay for each completed year of service
Between 22- 40 years of age you receive	1 weeks pay for each completed year of service
41+ years of age you receive	1½ weeks pay for each completed year of service

You can use the manual redundancy pay ready reckoner (see Appendix 3: Statutory Redundancy Allowance Ready Reckoner Table) or you can use the Government online calculator and print a copy of the results you create to give to your employee (www.gov.uk/calculate-employee-redundancy-pay).

The maximum weekly pay is currently £538 per week which is reviewed annually and will increase on April 2021. The calculation date for a redundancy payment will generally be the date at the end of the notice period.

Tax and National Insurance are not applicable for redundancy allowance payments (unless more than £30,000).

Time off to look for work

Where you have given notice of redundancy to your employee and he has been continuously employed for at least 2 years, he has the right to reasonable paid time off to look for another job or arrange training. The maximum amount payable for time off during an employee's notice period is two fifths of a week's pay (equating to 2 days for an employee who works Mon-Fri). Where an employee needs more hours of leave an employer may wish to consider unpaid leave.

TEMPORARY LAY-OFF AS AN ALTERNATIVE TO REDUNDANCY

A temporary lay-off situation arises when there is a temporary reduction in work and you are unable to provide your employee with work and this situation is expected to only be for a temporary period. Please see Appendix 6: Temporary lay - off procedure.

Alternatives to consider before implementing temporary lay-off can include:

1. Provide alternative work which he is capable either at the job, on the job or elsewhere within the employer's business;
2. Establish whether your employee wishes to take annual leave.

Where an employee is available for work but you are unable to provide any work (for whatever reason), then your employee is due to be paid their guaranteed weekly graded rate of wages for that complete pay-week. After the paid week, where the provision of work continues to be temporarily unavailable, no wage payment is due to the employee for workless days.

Such temporary lay-off and non-payment of wages does not break continuity of employment, therefore the employee continues to accrue their holiday entitlement. If an employee has accrued holidays they may wish to take them as a means of income during the temporary stoppage of work.

You must confirm in writing that the firm intends to implement a period of temporary lay-off under National Working Rule 9 (contact SNIPEF IR [here](#) for template letters).

The letter should be sufficient evidence for the employee to provide to the local job centre as proof of not being in receipt of a wage payment. Where your employee may be required to register as available for work at a local job centre in order to apply for government benefits, the period of employment including the period where the employee is registered as unemployed will still be classed as continuous employment.

In terms of Working Rule 9 Guaranteed Week, an employee receives their full contractual pay for the 1st week of temporary lay-off. Thereafter, in any period of 13 weeks an employee is legally entitled to receive statutory guaranteed payments as a minimum.

If your employee is temporary lay-off for 4 consecutive weeks in a period of 13 weeks, he can give you written notice that he intends to claim redundancy payment.

You must consult appropriate representatives when proposing to temporarily lay-off 20 or more employees over a period of 90 days or less. Appropriate representatives are either representatives of Unite the union or another elected representative of the affected employees.

APPENDIX: 1

Minimum redundancy procedure - your check list

1. Consultation and investigation of options



2. Use objective selection criteria to calculate potential individuals at risk of redundancy

- Ensure the selection takes Age Legislation into consideration



3. Letter of invite to redundancy meeting

Must include:

- that it is a redundancy matter and what the possible outcomes could be
- have the right to bring a union or workplace representative
- copies of any relevant documentation



4. Redundancy meeting

Have meeting with an independent minute taker

Explain in full to employee:

- Business situation
- Reasons for redundancy
- The pool for selection
- The selection criteria and scoring
- Any alternative employment and potential payment arrangements
- Provide employee with the opportunity to respond



5. Adjourn meeting to consider response and statements made



6. Re-convene meeting to give:

- Decision
- Reason for decision
- Employee has the right to appeal the decision
- Employee will receive decision in writing



7. Send letter stating:

- Decision
- Reason for decision
- Employee has the right to appeal the decision

APPENDIX: 2

Redundancy selection matrix content examples

Name of employee	Job title		
Criteria		Score (1-10)	Total score
Standard of work (such as quality)			
Range of work (such as variety of jobs you can send employee to)			
Efficiency of work (such as completes jobs in expected timeframe)			
Breadth and depth of relevant knowledge/ experience: Installation			
Breadth and depth of relevant knowledge/ experience: Maintenance			
Breadth and depth of relevant knowledge/ experience: Gas, Oil, Renewable Technology			
Breadth and depth of relevant knowledge/ experience: Lead work			
Versatility (such as adaptability, ability/willingness to perform different functions/duties)			
Grading			
Qualifications			
Available to drive to jobs			
Communication (such as with team and customers)			
Team worker			
Attendance			
Time-keeping			
Disciplinary record			
Total score			
Notes Score (1-10) This is a range from good to poor off the employee: 10 = highest (eg the employee's skills are exceptionally relevant and useful to the organisation) 1 = lowest (eg the employee does not have suitable or adequate skills to do the job)			

APPENDIX: 3

Statutory Redundancy Allowance Ready Reckoner Table

How to use the ready reckoner table

Cross reference the person's age with their years of service and then multiply that number by their weekly salary (current maximum statutory weekly salary is £538 which will rise in 2021) = number of weeks redundancy pay.

Example: a person with a salary of £300 aged 21 with 4 years of service will be entitled to **2 weeks** salary e.g. a total redundancy of £600.

Age	Service (Years)																			
	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
17*	1																			
18	1	1½																		
19	1	1½	2																	
20	1	1½	2	2½	-															
21	1	1½	2	2½	3	-														
22	1	1½	2	2½	3	3½	-													
23	1½	2	2½	3	3½	4	4½	-												
24	2	2½	3	3½	4	4½	5	5½	-											
25	2	3	3½	4	4½	5	5½	6	6½	-										
26	2	3	4	4½	5	5½	6	6½	7	7½	-									
27	2	3	4	5	5½	6	6½	7	7½	8	8½	-								
28	2	3	4	5	6	6½	7	7½	8	8½	9	9½	-							
29	2	3	4	5	6	7	7½	8	8½	9	9½	10	10½	-						
30	2	3	4	5	6	7	8	8½	9	9½	10	10½	11	11½	-					
31	2	3	4	5	6	7	8	9	9½	10	10½	11	11½	12	12½	-				
32	2	3	4	5	6	7	8	9	10	10½	11	11½	12	12½	13	13½	-			
33	2	3	4	5	6	7	8	9	10	11	11½	12	12½	13	13½	14	14½	-		
34	2	3	4	5	6	7	8	9	10	11	12	12½	13	13½	14	14½	15	15½	-	
35	2	3	4	5	6	7	8	9	10	11	12	13	13½	14	14½	15	15½	16	16½	
36	2	3	4	5	6	7	8	9	10	11	12	13	14	14½	15	15½	16	16½	17	
37	2	3	4	5	6	7	8	9	10	11	12	13	14	15	15½	16	16½	17	17½	
38	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	16½	17	17½	18	
39	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	17½	18	18½	
40	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	18½	19	
41	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	19½	
42	2½	3½	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	
43	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
44	3	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	
45	3	4½	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	
46	3	4½	6	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	
47	3	4½	6	7½	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	
48	3	4½	6	7½	9	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	
49	3	4½	6	7½	9	10½	12	13	14	15	16	17	18	19	20	21	22	23	24	
50	3	4½	6	7½	9	10½	12	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	24½	
51	3	4½	6	7½	9	10½	12	13½	15	16	17	18	19	20	21	22	23	24	25	
52	3	4½	6	7½	9	10½	12	13½	15	16½	17½	18½	19½	20½	21½	22½	23½	24½	25½	
53	3	4½	6	7½	9	10½	12	13½	15	16½	18	19	20	21	22	23	24	25	26	
54	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	20½	21½	22½	23½	24½	25½	26½	
55	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22	23	24	25	26	27	
56	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	23½	24½	25½	26½	27½	
57	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25	26	27	28	
58	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	26½	27½	28½	
59	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28	29	
60	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	29½	
*61+	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	30	

17* -The table starts at age 17, as it is possible for a 17 year old to have 2 years' service. Compulsory school leaving age can be 15¾ or 15½ where a child is 16 before 1 September.

61* -The table stops at age 61 because for employees age 61 and over, the payment remains the same.

APPENDIX: 4

Draft letter: Invite to Consultation meeting

Note for employer: An independent party taking minutes from the meeting is often your office worker so you should include them in your call.

[Your name & address]

[Date]

Strictly Private and Confidential

[Recipient's name & address]

Dear [name]

I am writing to inform you that you are required to attend a consultation meeting to discuss your position here at [name of firm], on [date] at [time] at [location of meeting]. This is in light of [business reason for redundancy, such as losing contract(s) with [name] / the closure of sites [name] and resulting in the loss of work for employees].

The meeting is to discuss the possibility of redundancy as a result of [business reason for redundancy]. We shall:

- discuss and explore ways of avoiding or reducing the number of redundancies
- discuss and explore the option of voluntary redundancies
- give you the opportunity to raise any questions
- give you the opportunity to put forward any suggestions for alternative solutions
- consider possible suitable alternative employment within the organisation
- explain the selection process

[As we are unable to hold a meeting in the same room, due to the Coronavirus, we shall hold the meeting via Whatapp video. I will therefore phone you to hold the consultation meeting.]

At this meeting, [name] will be in attendance, with [name] acting as an independent party to take minutes from the meeting. You may wish to bring a union representative or another staff member along to accompany you at this meeting. If you wish to bring a representative please advise me who this shall be and share their phone number by [date].

After we have held this consultation meeting I will consider the points you raise in our discussion before making any final decisions. If having carried out the individual consultation meeting, we are unable to find an alternative to redundancy, I may have no option other than to terminate your employment by reason of redundancy.

If you require any further information, please do not hesitate to contact me at [email address and/or phone number].

Yours sincerely

[Your Name]

APPENDIX: 5

Draft letter: Invite to redundancy meeting with possible termination

[Sender's name & address]

[Date]

CONFIDENTIAL

[Recipient's name & address]

Dear [name]

I am writing to inform you that you are required to attend a meeting to discuss your position here at [name of firm], in light of the [business reason for redundancy] on [date] at [time]. The meeting is to discuss the possibility of redundancy as a result of [business reason for redundancy] and may lead to the termination of your employment.

At this meeting, [name] will be in attendance, with [name] acting as an independent party to take minutes from the meeting. You may wish to bring a union representative or another staff member along to accompany you at this meeting. If you wish to bring a representative please advise me who this shall be before your meeting.

If you require any further information, please do not hesitate to contact me.

With best wishes.

Yours sincerely,

[Sender's Name]

APPENDIX: 6

Temporary lay - off procedure

1. Make workforce aware that temporary lay - off is being carried out. Explain:
 - ✓ what it is
 - ✓ how many weeks you envisage this will last for
 - ✓ how it will effect employees and their pay



2. If the whole of the workforce will be effected selection will be straight forward. If you must select particular employees use a selection matrix to avoid discriminatory or unfair selection processes.



3. Provide letter confirming and explaining the situation referring to SNIJIB National Working Rule 9 (Contact SNIPEF IR [here](#) for template letters).



4. Note: Employees are entitled to a guaranteed wage week. From then on the employees will not receive a wage so will need to enquire with the government about what benefits they may be eligible for while out of work



5. Employee does not ask for redundancy

5. Employee asks for redundancy after 4 weeks



6. After 13 weeks the employee is eligible to receive another guarantee payment for 5 days. Is this no longer a temporary situation (you could be at risk of constructive dismissal). Contact SNIPEF IR [here](#) for advice.

6. Reply within 7 days to state you propose to pay the redundancy allowance or state you will provide 13 weeks' work within 4 weeks. (Contact SNIPEF IR [here](#) for template letters)



7. Note: During the temporary lay - off, as the contract has not been terminated, employees are still contracted with you, resulting in no break in their contract

7. Note: During the temporary lay - off, as the contract has not been terminated, this period must be taken into account for the purpose of redundancy calculation