

# Redundancy Overview

Breakfast Briefing

# Potentially fair reasons for dismissal

## s.98 ERA 96



- Conduct
- Capability
- Redundancy
- SOSR
- Statutory restriction

# Definition of redundancy

## s.139 ERA 96



### 139 Redundancy.

- (1) For the purposes of this Act an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to—
  - (a) the fact that his employer has ceased or intends to cease—
    - (i) to carry on the business for the purposes of which the employee was employed by him, or
    - (ii) to carry on that business in the place where the employee was so employed, or
  - (b) the fact that the requirements of that business—
    - (i) for employees to carry out work of a particular kind, or
    - (ii) for employees to carry out work of a particular kind in the place where the employee was employed by the employer,

have ceased or diminished or are expected to cease or diminish.

# Definition of redundancy

## s.139 ERA 96



- Consider putting together a business case
- Consider alternatives
  - Offering voluntary redundancy
  - Change working hours or roles (following consultation/agreement)
  - Limit overtime
  - Pause recruitment
  - Stop using agency or contract workers
  - Consider temporary lay offs

# Redundancy pools



- Pools may be required if more than one type of role is at risk
- Goes beyond job title – consider skills
- Employees should have the opportunity to consult on the pool for selection during consultation process

# Selection criteria



- Employees within the pool should be selected using objective selection criteria relevant to the role
  - Skills
  - Qualifications
  - Performance records
  - Disciplinary record
  - Absence history (excluding disability/ pregnancy related sickness)
- Minimum of 2 people to conduct scoring
- Employees should have the ability to challenge and ask questions about their score during the consultation process

# Consultation - individual



- Employer should engage in meaningful consultation with 'at risk' employees
- Usually 3 meetings but more could be required:
  - Initial 'at risk' meeting to discuss business case, process to be carried out, pool for selection, scoring criteria
  - Second consultation meeting to discuss score, redundancy package, notice requirements
  - Final consultation meeting where outcome provided

# Collective consultation



- Consider whether collective consultation is required
  - Proposing 20 or more redundancies in one establishment within 90 day period
  - Minimum 30 days before the first dismissal if between 20 and 99 redundancies
  - Minimum 45 days before the first dismissal if 100 or more redundancies
- If threshold met, further procedural requirements incl. consulting with employee representatives
- Seek legal advice

# Alternative employment



- Employers under a duty to offer 'suitable alternative employment' to those selected for redundancy
- Roles should be offered to those who have recently returned from maternity/ shared parental/ adoption leave first – protected until 18 months from birth or placement

# Redundancy pay



- Employees with over 2 years' service entitled to a statutory redundancy payment
- [Calculate your employee's statutory redundancy pay - GOV.UK](#)
- Employer may also offer enhanced redundancy pay

# Questions?

