

RAINEY COLLINS LAWYERS

Employers' Guide to the Redundancy Process

Here are the steps that need to be followed if an employer is contemplating a redundancy situation. Please note that if the employment agreement outlines a process then that must be followed in addition to the points listed below.

Remember that many an employer has failed to follow a proper process and while it was accepted by the court or tribunal that the redundancy was appropriate, substantial compensation has had to be paid to the employees because of the process itself was unfair.

1. The employer should consider the position and make a tentative decision on what needs to be done and why.
2. Any staff that may be affected need to be spoken to individually.
3. They should be told of the purpose of the meeting.
4. At the meeting they should be told that because of financial or other reasons some changes are being looked at and that it is possible that their position may have to change.
5. Give them the details of what is proposed.
6. Ask them for their input into the process.
7. They can make comments and ask questions at the meeting, but also let them know that you would like them to get back to you by a set date (say a week away) with any comments and suggestions they have.
8. Tell them that they may want to get a representative to give them advice.
9. Consider all the comments received throughout the process.
10. Make any further investigations necessary.
11. Make your decisions on what is to happen.
12. Set up a further meeting for each individual. Offer for them to bring a representative to the meeting if they wish to do so.
13. Advise each staff member individually at the meeting what the decision is.
14. If the position is to be totally redundant then give them notice (say 4 weeks). Advise that there is no redundancy payment (subject to their employment agreement terms).

15. If there are some hours available offer them the hours or roles decided on, give them a chance to consider and get their reply (set a time frame again ... say a week later).
16. If they reject the hours or roles offered then advise them that their position is redundant, and give them written notice of that and the notice period ... and confirmation that there is no redundancy payment or what ever is in accordance with their employment agreement.
17. Employers should tell the employees they are making redundant that the Government has provided assistance for employees who are made redundant and that they need to apply to Work and Income NZ within 20 days.

Remember that you cannot disguise a performance or disciplinary issue as a redundancy. The reasons for the redundancy must be genuine.

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