

Top tips for surviving redundancy

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Top tips for surviving redundancy

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Redundancies have always been a way of life in the City, but in the current economic climate, when many organisations are merging, some have recruitment freezes and many others are considering relocating, being at risk of redundancy can be especially worrying.

Follow our top tips for redundancy to ensure you get the best chance of keeping your role, and the best compensation if you

do not.

Our 'Top Tips' for redundancy scenarios

1. Do your homework

Check what your contract, company policies, and any relevant collective agreement says about redundancy. They might refer to a right to enhanced redundancy pay (over and above the statutory entitlement) or fixed consultation procedures. If so, make sure that your employer is doing what they are supposed to do. Enhanced redundancy terms for City employees are common and range from a multiple of 2 weeks per complete year of service upwards. Law firms tend to have less generous enhanced terms whereas the traditional banks with unionised workforces tend to be more generous. Also, check bonus, LTIP and share schemes – they might incorporate “good leaver” terms if you are dismissed for redundancy.

2. Phone a friend

Most employers allow employees to be accompanied at redundancy “at risk” or consultation meetings by a colleague or trade union representative although there is no legal obligation to do so, it’s good practice. If you aren’t told that you can be accompanied at an “at risk” meeting, then ask. If your employer’s notes are inconsistent with your own (or your companion’s), ask your employer to put a copy of your notes on file.

3. Question time

In order to fairly dismiss for redundancy, your employer should individually consult with you about the redundancy situation, consider alternative ways of saving the role and avoiding the redundancy, enable you to have time to respond, and enable you to apply for different roles within the business. If you have any questions during the consultation process, ask them.

Some key issues to look for (but there are more):

- Have you been told why your role is at risk? Does it make sense?
- Have you been told who else is at risk? Has one of your colleagues been “missed out”?
- Do you think that other people should have been included in the ‘at risk’ pool?
- Do you think that your employer should have considered “bumping” (i.e. removing others from their roles so that you can fill their vacancy)?
- If you are going through a competitive application process for roles, do you know the selection criteria and what other factors (such as past appraisals) are being taken into consideration?
- Do any selection criteria disadvantage you due to your particular circumstances e.g. disability or pregnancy/maternity leave?
- Have you been told about all existing vacancies (including roles that are junior/senior to yours)? Have you been given a fair opportunity to apply for those roles?
- Have you seen the selection criteria for alternative roles? Do you think they are fair?
- Is there a job vacancy that you haven’t been told about?

4. It’s a numbers game

If your employer is proposing to make 20 or more employees redundant in a period of 90 days, they have additional collective consultation obligations. If they fail to comply with these obligations, you may have an additional claim for up to 90 days’ pay.

5. Is there another reason?

Employers often view “redundancy” as the easiest way to eject an employee and retain the employees they really want. For that reason, a redundancy process can be used to cloak more sinister acts (even discrimination or the repercussions of

whistleblowing). If this is the case, you may have additional, more valuable claims against your employer beyond a claim of unfair dismissal. If you suspect discrimination or other unlawful acts, or you think that redundancy is being used to “mask” another reason for your exit, make a careful note of anything that is said or done which supports your allegation. This can be used as evidence later down the line.

6. Appeal

As part of the redundancy process you should be given a right of appeal. Exercise your right to do so. Make sure your appeal is submitted in time and identifies the specific issues you have with the redundancy process and the decision.

7. Protected conversations and settlement agreements

In the City, a likely route is for your employer to circumvent the above procedures and offer you a settlement agreement on a confidential basis and ask you to seek independent legal advice on its terms. The written agreement will set out terms that will seek to buy you out of any contractual, statutory and other claims you may have (such as unfair dismissal), by offering you compensation. The settlement agreement will ask you to waive any claims in return for signing the agreement. A standard contribution to legal fees for you to obtain advice on the terms and effect of the agreement is usual. Any negotiations on the terms of the agreement will be confidential and are unlikely to be admissible in any proceedings, unless your employer behaves in a particularly improper manner towards you during the protected discussions.

Brahams Dutt Badrick French LLP are a leading specialist employment law firm based in the City, Canary Wharf and Mayfair. We are experienced in advising on severance packages arising from redundancy processes and getting clients the best deals whilst protecting their reputations. If you would like

any further advice on redundancy and the topics discussed in this article please contact us on **020 3828 0350** or at info@bdbf.co.uk.

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