

Collective redundancy consultations

This newsletter summarises the collective redundancy consultation process.

When does the duty to consult collectively arise?

- The duty to consult arises where a business is proposing to dismiss as redundant 20 or more employees at one establishment within a period of 90 days or less. An establishment means a local employment unit for collective redundancy purposes.
- The obligation to consult operates, in effect, as a moratorium on the proposed dismissals, whereby the dismissals cannot take effect for a minimum period of time once consultation has started.

Whom to inform and consult

- The business has a duty to inform and consult on its proposal with appropriate representatives of the affected employees. It must also notify the Department for Business, Innovation and Skills. Failure to do so is a criminal offence.
- Where any of the affected employees is a member of a recognised trade union, the trade union must be consulted. In other cases, the business may consult with representatives directly elected by the affected employees or with an appropriate standing body of representatives elected or appointed for some other purpose.
- Where elected representatives are required, specific statutory rules exist governing the election and adequacy of representation produced by that election.

The consultation process

- The consultation must begin in good time. Certain minimum time periods apply depending on the scale of the redundancies proposed. For fewer than 100 redundancies the consultation period is 30 days. For more than 100 it is 45 days.
- Consultation begins with the provision of information on the proposals to representatives.
- As a minimum, consultation must be undertaken with a view to

If you would like to discuss any of the matters raised in this newsletter please contact:-

Jane McKee
jmk@blackgraf.com
Tel: 020 7586 1141

Michael Sutton
ms@blackgraf.com
Tel: 020 7586 1141

The information in this newsletter is not meant as a substitute for advice on particular issues and is written in general terms. You should seek specific advice before taking any action based on the information in this newsletter.

Black Graf LLP 100 Baker Street London W1U
6WG
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This newsletter outlines the law as it stands at the date of writing in September 2015.

reaching agreement on:

- ways and means of avoiding the dismissals;
- reducing the numbers of dismissals; and
- mitigating the consequences of any dismissals.

Penalties for breaching the duty to consult

- A failure to comply with any of the rules on information or consultation, or on the election of representatives, can lead to a protective award being made by an employment tribunal.
- The maximum protective award is up to 90 days' gross pay for each affected employee. The award is not based on loss of earnings, but on the seriousness of the employer's default.

