

REDUNDANCY



This sheet gives you FACTS about your rights in a redundancy situation and TIPS on things to think about when dealing with your employer.



**PREGNANT
THEN SCREWED**

FACT 1:

Some dismissals are labelled as ‘redundancy’ when they’re not.

A genuine redundancy only happens if the organisation you work for:

- ➔ is closing down completely
- ➔ is shutting a particular site
- ➔ no longer needs as many (or any) people to do a particular job
- ➔ no longer needs as many (or any) people to do a particular job at a particular site

TIP:

Ask your employer to confirm in writing which of these four options applies. If none of them, then this is not a redundancy situation

FACT 2:

If your employer decides to dismiss you as redundant, but you haven't yet had any meetings with them about it, this is wrong

You have the right to:

- ➔ A proper consultation involving a full discussion with you before any decisions are made
- ➔ Enough information to allow you to understand the redundancy situation and to respond
- ➔ Enough time to think about your response to what you have been told
- ➔ Your response being properly considered by your employer


TIP:

Being on maternity leave is not a valid reason for your employer failing to consult you. Remind them that they are obliged to consult you, because you are still an employee and have the right to be kept up to date.

FACT 3:


It is the job role that is 'redundant', not the person. Your role might be redundant, but this doesn't mean you have to be the person who is dismissed.

You have the right to:

 Express your views (and have them listened to) on who is in the 'pool' for selection: this is the group of people from which one or more people will be selected to be dismissed

TIP:

Ask yourself: who does the same job as me? Who does a similar job to me? Whose job do I have the skills to do? All these people could potentially go into the pool for selection.



Express your views (and have them listened to) on the 'selection matrix': these are the factors your employer will look at when deciding who to dismiss as redundant.

TIP:

Only objective factors can go in the matrix (e.g. skills, qualifications, performance, disciplinary record).

If you spot any factors that rely on opinion (e.g. 'attitude'), ask for them to be removed.

If you spot any factors that could be influenced by you being on leave (e.g. attendance, sales figures), make sure these factors do not include results that cover your period of leave.

If you think you've been selected for redundancy based on you taking, or being on, maternity or other family leave, or because you are part-time, this could amount to discrimination and/or automatically unfair dismissal.

FACT 4:

You are entitled to be offered a suitable alternative job – but you don't have to take it

Anyone who is selected for redundancy has the right to be offered a suitable alternative job if one exists. An alternative job is considered suitable if, broadly, the terms and conditions of the new job are no worse than those of the old job.

If you're on maternity leave when selected for redundancy, your employer must offer you any available alternative jobs **BEFORE** they offer them to colleagues who are not on family leave.

TIP:

Your employer CANNOT require you to apply for, be interviewed for, or be involved in any selection process for the alternative job. The law says that anyone on maternity leave must be offered the alternative job, full stop.

If the job is suitable, you need to think about whether to accept it. Anyone who unreasonably refuses an offer of a suitable alternative job loses their right to a statutory redundancy payment.

TIP:

What amounts to a 'reasonable' refusal will depend on a person's personal circumstances. Reasons for turning down an alternative role might include things like the new job being too far to travel to, or it having a negative impact on your home life. If your employer has only given you a very short time to decide whether to accept the new job, this can also be a reason to reasonably refuse the job.

FACT 5:

You are entitled to try out the new job

Everyone offered a suitable alternative job is entitled by law to a 4-week trial. If you are offered the new job whilst on maternity leave, this trial starts when you come back from maternity leave.

If you decide you don't want the new job within this 4-week period, you can tell your employer and they must still pay you a redundancy payment (see below).

TIP:

Your employer may offer you a trial period of longer than 4 weeks. Just remember that if you decide you don't want the new job at any point after the 4-week period is over, you lose your right to a redundancy payment.

FACT 6:

You are entitled to your notice period

All employees dismissed for redundancy are entitled to their notice period. You will be entitled to the greater of the notice period provided by law (which is broadly one week for every year you've worked for the employer, up to a max of 12 weeks) and that provided in your contract.

TIP:

Check your employment contract: the notice period in there might be longer than the notice the law provides for. If it is, this complicates how, if at all, you will be paid for your notice period – you should get advice if this is the case.

FACT 7:

You may be entitled to a redundancy payment

Anyone who has worked for their employer for 2 years, and has not unreasonably refused an offer of a suitable alternative job, is entitled to a statutory redundancy payment (here is a handy calculator to help you work out how much this is: <https://www.gov.uk/calculate-your-redundancy-pay>).

TIP:

Check your employment contract: your employer might provide a more generous redundancy payment than the one provided for by law. In all cases, a week's pay is a 'normal' week's pay, not a week of maternity pay.

FACT 8:

You are entitled to a written statement of the reasons for your dismissal

Women who are dismissed when pregnant or at any time after childbirth and the dismissal brings the maternity leave to an end are entitled to written reasons for dismissal.

TIP:

Tell your employer that if they do not provide written reasons for dismissal, you are entitled to bring a claim to the Employment Tribunal for up to two weeks' pay

FACT 9:

Your employer must pay your maternity pay even if you are dismissed as redundant

If you are dismissed as redundant while on maternity leave, or at any point after the 15th week before your baby is due, you must still be paid your statutory maternity pay.

TIP:

If your employment contract provides for more generous maternity pay than the statutory payment, you should check your employment contract to see what it says about being paid that maternity pay if you are made redundant.

FACT 10:

If your employer doesn't follow the correct processes during redundancy this can be classed as automatic unfair dismissal and/or discrimination

Please see our facts sheets on these topics.

**Produced for Pregnant Then Screwed by law students at the
University of Chester**



CCLP

Chester Community Law Project

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