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# Myths of Redundancy!



We expose the Top 10 most common 'Myths of Redundancy'

Carrie-Ann Randall  
crandall@lawson-west.co.uk

[www.lawson-west.co.uk/employment](http://www.lawson-west.co.uk/employment)

## Myth

## Reality

1. My employer has to consult with me when making redundancies.
2. The notice period in my contract of employment is the most my employer has to pay me.
3. I am entitled to statutory redundancy pay if I am made redundant.
4. Last in - first out.
5. I am being made redundant.
6. You can only be made redundant if the work has stopped or the company is in financial trouble.
7. It is an unfair dismissal if my role is made redundant and another is still undertaking the role.
8. If my employer calls me into a 'Without Prejudice' meeting and offers me a Settlement Agreement, it means they are covering-up wrong doing.
9. My scores selecting me as a candidate for redundancy cannot be challenged.
10. I can't be dismissed for redundancy because I am pregnant.

Compulsory consultation is only if 20 or more positions will be made redundant. The rules regarding redundancy is that you must act reasonably. There is no obligation to consult with an individual but being open and transparent means it is best to engage in a consultation.

No it isn't. You are entitled to a statutory minimum of one week's notice for every year worked, up to a maximum of 12 weeks, or your contractual notice, whichever is the longer. If, for example, you have worked for eight years your notice would be the statutory minimum of eight weeks, regardless of whether your contract provides a lesser period.

You are only entitled to statutory redundancy pay once you have worked for your employer for two years. If your employer has their own enhanced redundancy policy, however, you should be treated in accordance with that.

Length of employment used to be one of the most common ways of objectively determining who to make redundant. It isn't any more as it is not generally considered fair (or, indeed, legally safe for employers) when used as the sole selection criteria. Most employers now generally either avoid it or use length of service as only one criteria out of many.

No, it is the position or post that is being made redundant. Until the termination notice has been served, it should remain a proposal that a position is being made redundant. If your employer cites you as being made redundant or even the role as being made redundant straight away, it could mean a predetermined decision has been made, thus resulting in an unfair dismissal, if proven.

No, redundancy can be when the business no longer wishes to undertake the work of a 'prescribed kind'. This is when the company is considering a restructure that removes a post or where it is absorbed.

If your role has been restructures and absorbed by others, this may be lawful so long as the employer can fulfil that the work of a prescribed kind has stopped. If however your role is one which multiple people undertake and you are the only person selected, with all of the remaining team continuing to work then yes, this may be a claim for unfair dismissal.

Without Prejudice talks once may have held some suspicion however now they have become a method to ensure finalisation, certainty almost matter of course to facilitate the termination of employment between the parties. There is no correlation between the meeting and wrong doing.

It is imperative that you do challenge your scores. It is quite possible that these may have not been correctly comprised. You must request redacted scores for other candidates and the full explanations as to why you scored what you did and who undertook the scores. If the scores cannot be justified or were undertaken by an individual who could not accurately score you, this could be something to challenge in terms of the validity of the redundancy process.

Pregnant employees and those on maternity leave can be made redundant. Selecting an employee for redundancy purely on the grounds of pregnancy or maternity leave is unlawful and could give rise to a discrimination claim, care is needed. When consulting with staff regarding redundancy, employers need to include those on maternity leave as part of the process. Although they are not afforded protection from dismissal on grounds of redundancy, employees on maternity leave are entitled to be offered a suitable alternative vacancy (where one is available) ahead of others also at risk of redundancy.