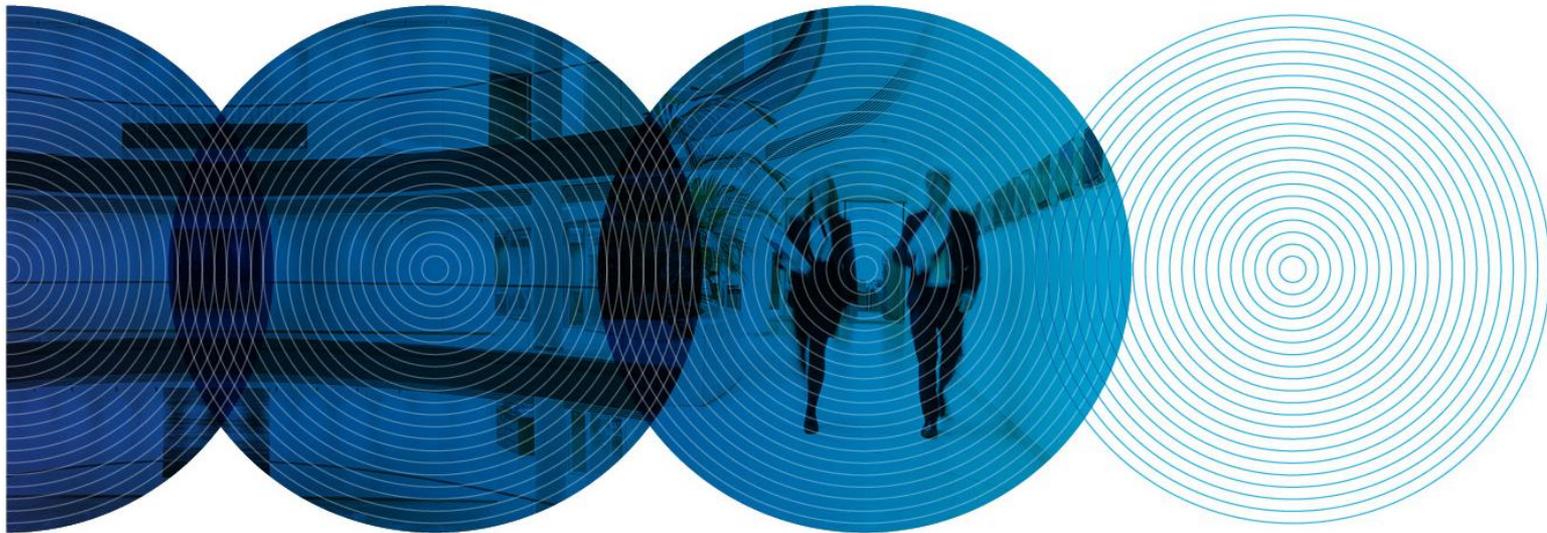

How do you implement a valid redundancy and selection process ?

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Redundancy Dismissals

- 79% reduction in the number of redundancies since 2013
- Reorganisations and restructurings
- Genuine redundancy
- Fair selection for redundancy
- Procedural fairness

Genuine Redundancy

- An employee is dismissed by reason of redundancy if, *‘for one or more reasons not related to the employee concerned’*, the dismissal is attributable *‘wholly or mainly’* to one of the five situations outlined in s 7(2) of the Redundancy Payments Acts
- Essential characteristics of a redundancy situation is **‘impersonality’**
- *“redundancy cannot be a cloak for weeding out those less competent”* Charleton J, *JVC Europe Ltd –v- Panisi* [2011]

Employer must act reasonably

- Record decision making process
- Consider whether a redundancy selection process is necessary
- Fair selection
 - *fair application of objective and non-discriminatory selection criteria to the correct pool of employees*

Redundancy Selection

- Identify the correct pool of employees
- Relevant factors:
 - Other groups of employees are doing similar work to the group from which selections were made
 - Employees' jobs are interchangeable, in which case a wider pool might be appropriate
 - The selection pool was agreed with the union or employee representatives
- Bumping
 - *Crawford v Modern Plant*

Redundancy Selection (*continued*)

- Decide on independent, objective and verifiable criteria
- Discriminatory selection criteria
- LIFO
- Attendance
- Subjective selection criteria
 - *Graham v ABF Ltd - 'attitude to work'*
- Misconduct
 - *Carole Quinn v Loughran's Stores Ltd, Dundalk*

Redundancy Criteria

- Individual performance and ability
- Attendance record
- Qualifications and training
- Relevant experience
- Punctuality
- Job technical/skill requirements
- Criticality to organisation
- Quality of work

Procedural Fairness

- If fair selection criteria are unfairly applied, the dismissal will be unfair
- Consultation
- Consideration of alternatives
 - *Alan Traynor v Students Union Commercial Services*
 - *Joe Foran v Tolerance Technologies*

Procedural Fairness (*continued*)

- Selection process
 - Employer should inform employees of the selection criteria to be applied
 - For employees selected for redundancy, share personal scoring on the selected criteria and give employee the opportunity to comment

Appeals of redundancy decisions

- Additional component of fair procedures
- Redundancy different from a disciplinary procedure
- Recent WRC authorities

Best Practice Guidelines

- ➔ Adhere to the principle that it is the position, not the person, that is to be made redundant
- ➔ Employers should record the decision making process which gives rise to the possibility of redundancies
- ➔ In the case of redundancy selection, employers should decide upon independent, objective and verifiable selection criteria
- ➔ Employers should identify the correct pool of employees to whom those selection criteria should be applied

Best Practice Guidelines *(continued)*

- ➔ Employers should ensure fair and consistent application of the selection criteria
- ➔ Consult with employees and consider any reasonable alternatives to redundancy
- ➔ Employers should inform employees of the selection criteria to be applied
- ➔ Employers should share the employee's personal scoring on the selected criteria and give the employee the opportunity to comment

Questions?

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