

Redundancy checklist

The redundancy checklist outlines the questions you should ask before or when you make a position/s redundant and will assist you to meet your legal obligations and enable a defence against unfair or unlawful dismissal claims, should they eventuate.

Checklist questions	Tips to get you prepared	Done ✓
What are potentially acceptable reasons for making a position redundant?	<ul style="list-style-type: none"> – Business no longer needs certain skills / duties to be done – eg: new technology – Your business has to reduce its workforce to save it from going under – Significant change of location – Sale/general restructure 	
Have you explored other options for redundancy?	<ul style="list-style-type: none"> – Common options: retraining, rewriting job descriptions, changing full-time to part-time or casual work, reducing hours or overtime, job redesign, transfers, taking of built-up leave, temporary shutdowns, cutting costs in other areas. – Exploring other options is required by law. 	
Is the redundancy genuine?	<ul style="list-style-type: none"> – For the redundancy to be genuine, duties of the role must no longer be needed to be done or the duties shifted to other workers. – If this is not the case, the employee may be able to claim unfair dismissal. 	
What happens when the skills, knowledge and duties of the position are gone?	<ul style="list-style-type: none"> – If you make positions redundant, keep in mind the skills and knowledge you might need again – eg: when business bounces back; what it will take to replace them. – Are there any positions with duties essential to cash flow, safety or compliance? 	
Can you prove to a third party redundancy was the only option?	<ul style="list-style-type: none"> – Redundancy must be demonstrated as the last resort – Ensure you have financial and other records to support your decision – eg: cash flow projections for after a redundancy or other financial statements. 	
Can the position be turned into a part-time or casual position?	<ul style="list-style-type: none"> – Technically, this is a redundancy so any entitlements applicable at the time of the change need to be determined. – Consult within your workplace (and possibly the union) if replacing full-time positions with part-time or casual positions. 	
Have you considered your obligations to pay severance pay and other entitlements?	<ul style="list-style-type: none"> – Employees with the business for less than 12 months; generally not entitled to severance pay – They must still be paid other entitlements where eligible, and treated fairly to avoid unfair and unlawful dismissal claims. 	
Have you consulted with employees (and unions where applicable) on the planned changes?	<ul style="list-style-type: none"> – The sooner you do this the better; early consultation with workers (and unions) even in confidence, will encourage smoother change and may give you some invaluable ideas on how to reduce the impact of retrenchment on your employees. – Most modern awards contain provisions obligating employers to consult with their employees about major workplace changes. 	
Are you certain of the legally required notice period?	<ul style="list-style-type: none"> – The award, contract or <i>Fair Work Act 2009</i> will list the legally required minimum notice period if it is not stated in the employee's letter of offer or contract. 	
What is payment in lieu of notice? Should you offer it?	<ul style="list-style-type: none"> – Payment in lieu of notice is payment equal to the wages for the notice period; is an alternative to an employee working to the end of the notice period; and is in addition to any other redundancy payments entitlements. – It can be paid to the employee if the retrenchment has immediate effect or before the end of the notice period. 	
Does redundancy process need to be compulsory?	<ul style="list-style-type: none"> – Employers can also offer employees the option to resign without a compulsory selection process – this is known as "voluntary redundancy". 	
Have you checked if you need to pay redundancy (severance) pay?	<ul style="list-style-type: none"> – The National Employment Standards (NES) determine that, generally, all private sector employees are entitled to redundancy pay where there are 15 or more employees (unless the industrial instrument says otherwise). – In very limited circumstances, a specific employer may apply to the Fair Work Commission for a reduction in the amount of redundancy to be paid. 	

Email margaret.goody@akyra.com.au with any queries you may have....
she will call you to arrange a convenient and no obligation conversation!



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