

7 Traps to Avoid When Making Redundancies During Furlough

Ensure you are receiving maximum benefit from government support through the Coronavirus Job Retention Scheme and limiting your liabilities as an employer, which means following the right redundancy process. Make sure to avoid 7 traps when making redundancies during the COVID-19 pandemic.



Trap 1: Not following the recognised Process for Consultation

Depending on how many people you propose to make redundant will depend on the process followed.

There is no requirement for a consultation period to be held face to face, there is, however, a requirement to consult with individuals and/or collectively for a minimum period of time. The time period depends on the number of redundancies

- 30 days consultation if you propose to make between 20 and 99 redundancies
- 45 days consultation if you propose to make 100 or more redundancies in a 90 day period.
- There is not a specific minimum period to consult when making less than 20 redundancies, however, you should consult for at least 1 week, best practice would be to consult for 2 weeks'

Coronavirus has not taken away the requirement to consult, it just means you need to be a little more creative with how you conduct your consultation process.

You will need to consider how best conduct these consultations, whether a phone call would be the best option, a video call such as the use of Teams, Zoom, Skype etc. or whether a face to face meeting on site (following social distancing) would be the best option. You will know your employees better than anyone else so you would need to decide how to consult with your employees, or ask them what their preference would be, you could always use a combination of all 3 depending on the part of the process.

Remember you may not have a recognised union or elected representatives for collective consultation, therefore you will need to elect employee reps to facilitate an efficient process, you will need to factor in time to elect these employee reps in a fair and transparent way.

Trap 2: Not being clear with staff why redundancy is required

The Coronavirus Job Retention Scheme was implemented to furlough employees with the aim to preserve as many jobs as possible.

When making redundancies one of the questions likely to be is "why can't I stay on furlough?" You will need to be objective and ensure you have thought of all scenarios when making the decision to make redundancies. Furlough may enable you to keep more employees whilst not making them redundant, however, furlough may also mean a cost to the business that cannot be sustained from August to October with the employer having to contribute towards the scheme in increments from August with Employer NIC's and Pension Contributions.

Trap 3: Miscalculating the costs of Redundancy Notice Pay

Regardless of whether your employees are working for you currently or are being furloughed when it comes to their notice pay and their redundancy pay, it should be calculated based on their contractual earnings, and not those of their furlough pay.

Therefore, if you intend on giving them their notice whilst they are on furlough leave, you will be expected to top their pay up to 100% for the notice period. Their weekly earnings for the redundancy pay should also be their contractual weekly earnings and not their furloughed weekly earnings.

Trap 4: Not Selecting at-risk individuals fairly and objectively

Ensure you have a clear reason as to why you have selected the roles you have that are at risk.

As part of the consultation, it is likely you will be asked how you've come to the suggestion of those roles, so you will need a clear business direction to explain your reasoning.

Trap 5: The Absence of Selection criteria or irrelevant criteria used

Ensure you have clear selection criteria that you can objectively score each individual on if you have a pool of individuals where you will be retaining some and making others redundant.

Ensure you know what skills you are looking to retain in the business, and more importantly who has those skills.

Trap 6: Discriminating Consciously or Subconsciously

Ensure when you are selecting roles to put at risk, as well as individuals from a pool, that you are not discriminating against anyone.

There are 9 protected characteristics that could be claimed you have discriminated on, they include Age, Disability, Sex, Gender Reassignment, Race, Religion or belief, Sexual Orientation, Marriage and Civil Partnership and Pregnancy and Maternity. Age can be a particularly difficult area, especially if you are looking at 'years experience' in roles and someone younger may not have the 'years experience' due to their age. Insisting on a particular qualification can also be a tricky point also, for example insisting someone has A*-C grades in their GCSEs, you would be targeting a specific age group where older individuals may not have GCSE's and younger individuals may not have had their GCSE's graded A*-C but from 1 -9.

Trap 7: Time Delays

Be mindful that the process may not stick religiously to a timeline you have produced, consultations are important and only have a minimum period, they can last as long as it is required to ensure meaningful consultation.

Equally, employees may be unwell and unable to meet with you at the required time and therefore their meeting is pushed back until a time when they are well.

Please contact our helpline and video support to help you make the best decisions.

Park City are here to support you every step of the way, providing all the letters you need, conducting and managing the consultation process and delivering the outcomes to staff.

Get in touch:
**01206
752100**