

Part-time workers and redundancy

What to do if you are under threat of redundancy as a part time employee

Sometimes employers attempt to restructure their businesses by making employees redundant. Employers must follow a fair process when selecting an employee for redundancy. It is not fair to dismiss an employee if the only reason for the redundancy is because he or she works part-time hours.

In many situations, it can be worth flagging your concerns about the employer's proposed approach, suggesting that you have legal protections as a result of your part-time status, and asking them to confirm the basis on which they are proposing considering you for redundancy. Sometimes this can give employers cause to think twice about whether they want to carry on with the proposed redundancy.

Legal position

If your employer does dismiss you (irrespective of whether they call it 'redundancy' or anything else) then you may be able to bring a legal claim against them on the following bases:

- Redundancy is one of the five potentially fair reasons for an employer to dismiss an employee, but there are still restrictions on how employees can be chosen for redundancy.
- Sometimes employers try to re-organise their workforce (i.e. so as to get more employees to work full time rather than part time hours) by suggesting that there is a redundancy situation. There may not be a genuine redundancy situation where, for example, there is in fact, an increase rather than a decrease in workload.
- Where an employer dismisses an employee for redundancy and they do not have solid grounds to do so, the employee could claim unfair dismissal on the basis that there has not been a genuine redundancy. Even if there is a genuine redundancy situation, an employer must follow a fair process leading up to any such dismissal.
- Generally, an employee can only bring an unfair dismissal claim if they have at least two years' service with their employer. But if you can

show you have been selected for redundancy based on certain grounds, including as a result of your part-time worker status, you do not need to be able to have two years' service and the tribunal may decide the dismissal was automatically unfair.

- There could be an argument that dismissing a female employee because they work part-time hours or for a reason connected to their part-time hours amounts to indirect sex discrimination. This is on the basis that requiring someone to work full time hours (or face redundancy as a consequence of a failure to do so) is likely to disproportionately impact on them as a working mother, because statistically women are more likely to bear the burden of childcare. The law protects female employees in this type of situation.
- However, it is possible for an employer to objectively justify the indirect sex discrimination (which means the claim will not be successful). In order to objectively justify the proposed redundancy/restructuring approach the employer has to show it has a sound business reason for its approach (a legitimate aim) and its actions to achieve that aim were proportionate.
- The first part of this, a "legitimate aim", may be relatively easy for an employer to show as they just need to demonstrate that the action corresponds to a real business need.
- The second part requiring it to be "proportionate" is harder. A redundancy process will be viewed as disproportionate if there is another way of achieving the same objective but without being as discriminatory.
- There are also specific legal protections for part-time workers. If you are dismissed because of your status as a part-time worker then you may be able to claim that you have been treated less favourably because of your part-time status. You could also claim unfair dismissal on this basis.

Next steps

We recommend that you raise your concerns with your employer. You don't need to do so formally. Often, just having a conversation with your line manager can be helpful. This gives you the opportunity to explain things from your point of view. Ideally, an informal conversation that goes well could mean that you can continue working in your current role, on your current hours.

If, however, an informal approach doesn't get you enough reassurance or your employer still seems focussed on looking at redundancies/restructuring or forcing you to work more hours, you may want to take a stronger approach. This would involve you clearly spelling out to your employer that you believe they would be in breach of their legal obligations to you if they proceed with the dismissal/force you to work full time hours.

You can refer to the points above in the section called 'Legal position'. That might lead your employer to back down or, instead, it might put you in a better position in relation to any redundancy payment terms they might offer.

You could also consider raising a formal grievance, which would mean your employer has to formally consider the concerns you've raised. Your employer must follow a fair procedure; if it doesn't do so this can be taken into account in any employment tribunal proceedings. We have produced a draft grievance letter for you to complete if you'd like to do this (link below).

Grievance Letter – Selection for redundancy part time workers

You also have the right to ask informal questions of your employer if you think you have been discriminated against contrary to the Equality Act 2010. This can help to flush out information which you don't know about how your employer has dealt with part-time working in the past, and might place you in a stronger position if you were going to consider bringing an employment tribunal claim.

Ultimately, you might be able to bring a claim in the employment tribunal. Bringing a claim should not be taken lightly. It can be a long and drawn out process and can be very stressful. If you did want to go down this route then you need to be aware of the time limits for bringing a claim (the clock would start ticking from the point at which you're dismissed or of the act complained of in the case of a discrimination claim, which could be different depending on how you bring your claim) and you would firstly need to get in touch with ACAS.

Finally, in any conversations you have with your employer about their request that you increase your hours and your role apparently being at risk of redundancy, it's worth taking a note of what was said, and keeping copies of any relevant emails. These may assist you if you did want to take more formal action (such as bringing a tribunal claim).