

redundancy and practical alternatives

In the current economic downturn, many organisations are considering ways of reducing costs and down-sizing their work forces.

In some cases redundancy is unavoidable and as in all areas of employment a fair and legal procedure has to be adopted.

However many employers are looking for practical alternatives to redundancy such as changing terms and conditions such as hours, pay, benefits, bonuses or commission.

Where there is no right under the contract to change the terms of employment they are at the number of options available:

- express agreement by the employee

- unilateral imposition of the change
- termination of the contract and re-engagement

The safest way to vary an employee's contract of employment is with his or her written consent and in some cases the employer gives some sort of consideration for the agreement. If agreement is not forthcoming, the employer may unilaterally impose the change. This can be risky however as the employee can:

- 1 work under protest known as 'standing and suing'
- 2 resign and claim constructive unfair dismissal
- 3 refuse to work under the new terms.

The other option is to terminate the employee's contract on notice and

offer re-engagement on the new terms to commence immediately the old employment ends. If the employee refuses to accept the terms of the new contract then the employer may be faced with an unfair dismissal claim similar to what may happen following a unilateral imposition of change where the employee resigns and claims constructive dismissal.

When considering any changes, consultation and honest, frequent communication with employees is extremely important not just from a legal perspective but also in terms of maintaining good employee relationships in a very stressful time.

If you are having to consider redundancies or are considering changing your employees' terms and conditions please call me to discuss.