

# Handling Redundancies and Layoffs

## What is redundancy?

For the purposes of these guidelines the terms redundancy<sup>1</sup>, layoff<sup>2</sup> and retrenchment are used interchangeably and describe the situation where the employment of a worker is terminated because:

- a business is closing down, either completely or at a particular site, or
- there is a diminishing need for the employee to carry out work of a particular kind, due to a slow-down and/or cost cutting measures.

Given the impact of today's global economic crisis on business, SEA is issuing this note to provide general guidance to our business partners on how to handle planned redundancies or layoffs.

These guidelines are based on a review of available published materials and reflect international practice.

## Planning for redundancies

Why do you need to develop a formal approach on how to handle any planned downsizing or retrenchment? Because it will help:

- ensure fair and consistent treatment
- avoid uncertainty
- assist the process of change and business continuity
- reduce the possibility of conflict and misunderstanding with the workforce
- reduce your legal liabilities and potential claims for unfair dismissal
- meet your obligations under the adidas Group Workplace Standards.

## What measures can be taken to minimise or avoid redundancies?

Long-term options include:

- reviewing staffing levels to meet changes in the market
- agreeing changes in working practices in order to make savings in other areas
- withdrawing contracted-out work
- considering suitable alternative work
- considering relocation or transferring production
- introducing early retirement.

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<sup>1</sup> What constitutes "redundancy" may differ depending on how it is defined by local law. In the United Kingdom, for example, redundancy has a very specific statutory meaning.

<sup>2</sup> Originally the term "layoff" referred exclusively to a temporary interruption in work, as when factory work cyclically falls off rather than to permanent termination of employment

Short-term options include:

- reducing overtime and short-time working
- allowing workers to take paid leave or voluntary unpaid leave
- stopping recruitment, particularly of temporary staff
- pursuing a policy of retiring those already beyond retirement age.

## **What are the most common criteria when selecting for redundancy?**

It is important to use criteria that are objective and non-discriminatory when deciding who is to be made redundant.

*Non-compulsory* selection criteria include:

- voluntary redundancy, and
- voluntary early retirement.

Appropriate *compulsory* selection criteria include proper consideration of an employee's:

- proficiency through skills and qualifications,
- standard of work performance, and
- attendance or disciplinary records.

Seniority and length of service may also be a factor when selecting those to be made redundant. However, in some cases it may be appropriate to retain an employee with less seniority, where they possess specialised skills, knowledge and abilities.

If you are thinking of dismissing an employee(s) on the grounds of redundancy then follow a standard dismissal procedure. Typically this involves:

- writing to the employee,
- setting out the reasons for the dismissal;
- meeting with the employee to discuss the dismissal; and, where necessary,
- holding an appeal.

The specific procedure will vary by country, according to the requirements of the local labour law or may be detailed in a collective agreement with a trade union, where one exists.

It is important that all layoff decisions be properly documented and reviewed for compliance with personnel policies and non-discrimination policies and meet standards of fairness.

## **Fairness**

The employer must have a proper and *fair reason* for dismissing the employee and also follow a *fair procedure*.

Retrenchment or redundancy due to economic circumstances - where the employer is cutting down on staff or restructuring the work undertaken - is widely accepted as a 'fair' reason for dismissal.

A fair procedure would require full consultation with the workforce and/or their representatives, and proper notice of redundancy, a right of appeal and prompt payment of any outstanding wages, leave entitlements and severance.

## **Communication**

Redundancy affects people lives and their livelihoods. Clear and transparent communication is therefore very important. Communicate early and often with the workforce and be open and honest about the situation they are facing. Explain the reasons for the layoffs and the timeframe over which these will take place. See also *Direct engagement with the workforce*, below.

Expect those who are laid-off to be upset and angry at losing their jobs, therefore take the time needed to properly prepare for, and conduct, a layoff notification meeting (see guidance given in Annex A). Those who are being retained will also be concerned about their job security and will be looking for assurances about the future.

Obtain employee feedback and be prepared to proactively address questions.

For further suggestions see *Maintaining morale and productivity* below.

## **Consultation**

Suppliers must consult appropriate representatives when it is proposed to dismiss employees. Appropriate representatives are either representatives of a recognised trade union or other elected representatives of the affected employees.

Employee representatives may be elected solely for the purpose of consultation about specific redundancies or they could be part of an existing elected consultative body, for example a works council or welfare committee. The process of consultation must be properly carried out, with a view to reaching agreement with the trade union or other elected employee representatives on key issues which should include ways of:

- avoiding the dismissals, where possible
- reducing the number of employees to be dismissed
- mitigating the effects of dismissals.

Minimum periods of consultation are normally laid down in the law and may vary depending on the nature and scale of the redundancy.

However, it is a good practice to consult in all cases at the earliest opportunity, i.e. at the point where a potential redundancy situation is identified and prior to formal notification of to employees of their redundancy.

## **Information disclosed to trade union or employee representatives**

Suppliers should disclose in writing to the trade union or other elected employee representatives the following information:

- the reasons for the proposed redundancies
- the number and descriptions of those it is proposed to make redundant
- the selection method and how the dismissals will be carried out (including the proposed timescale)
- the proposed method of calculating severance, i.e. the redundancy payments.

In addition, it is good practice for suppliers to consult and, where appropriate, negotiate:

- relocation arrangements
- time off for employees to look for other work
- any retention of company benefits
- the length of trial periods in a new job where re-training is involved
- the effect on earnings if another job is accepted in preference to redundancy

## **Direct engagement with the workforce**

Where employees have no formal representation, direct engagement with the workforce may be required. As a minimum this will require the supplier to disclose:

- reasons for retrenchment
- alternatives considered including redeployment
- number of workers to be retrenched
- how it will be decided which workers to retrench
- when the dismissals will take place
- severance pay calculations and an explanation of how this was calculated
- what other help will be given to the workers who will be retrenched

## **How to handle redundancies: a checklist**

The following steps should be taken where appropriate:

- decide on the numbers to be made redundant
- consult with trade unions or other elected employee representatives promptly and within time limits laid down by law
- disclose the required information
- allow the appropriate representatives access to the affected employees
- notify and seek the support of government where necessary
- extend the consultative exercise to others affected by the redundancy programme
- call for volunteers, where appropriate
- consider availability of other work or retraining
- select employees for redundancy based on an agreed and transparent procedure
- inform employees as soon as possible of their impending redundancies
- allow them time off to look for work or to arrange training

- issue dismissal notices
- manage worker appeals
- promptly settle any redundancy pay
- offer guidance and counseling to those affected.

## **Understand your legal duties**

As a core principle of the Workplace Standards the adidas Group requires our business partners to meet in full their legal obligations, including notification, consultation and the payment of severance to workers' who are laid off. Suppliers should familiarise themselves with the applicable laws and regulations related to redundancy and seek outside legal advice if necessary.

Please note that certain individuals, such as pregnant women, or those suffering long-term illness or disabilities, may have special protection under the law.

## **Offer support**

Every supplier must act responsibly and provide information and assistance to each employee who is laid-off. In some countries, unemployment insurance, medical entitlements and re-training schemes may be available to workers who have been made redundant. HR managers should advise laid-off workers on the steps to take to register for government aid.

## **Appeals**

Workers should have the right to appeal against their dismissal due to redundancy. The right of appeal and the procedure under which he (or she) can exercise that right should be clearly communicated to the employee at the time they are notified of the layoff. Employees who appeal will have the right to be accompanied by a trade union representative or a workplace colleague. The opportunity and process for appeal should follow the requirements of the local law.

## **Maintaining employee morale and productivity**

There are many ways factory managers and supervisors can facilitate employee morale during difficult economic times:

- Provide constant, open, and empathic communication to employees throughout the layoff process. This promotes trust and can reduce problems with morale and productivity.
- Communicate continuously with employees before, during, and after downsizing to the extent possible, both formally and informally. This can best be accomplished through the use of multiple media, i.e. staff meetings, newsletters, audio-visual aids, memos, e-mails, informal meetings, one-t- one and group meetings.
- Provide updates with accurate information, which helps dispel rumours or inaccurate information.

- Communicate with those who keep their jobs, as these employees also feel the impact of their co-workers' layoff, e.g. increased uncertainty, and/or changed work duties.

## Engaging with Social & Environmental Affairs (SEA) department

Where layoffs are planned, the adidas Group has very clear expectations.

Firstly we expect our manufacturing partners, including those suppliers working for our licensees and agents, to **notify SEA in advance** of their plans and for these plans to take into account the guidance offered in this document.

We expect layoffs to be managed professionally and that our suppliers prepare and share with SEA a **redundancy plan**. The redundancy plan should set out the method for choosing the staff to be made redundant (for example, first on, first off), the names and positions of those who are to be made redundant, their factory ID number, sex (male/female), marital status, years of service and contract status (full or part-time, permanent or temporary).

We would also expect a copy of the **severance plan** to be provided to SEA, which shows the calculation of severance for those being made redundant as well as their final pay which should include any outstanding wages, bonus payments, leave entitlements, etc. The payouts detailed in the severance plan should meet in full the requirements of the local labour law and be based on years of service.

Finally we would expect the factory to share with SEA their **communications plan**, detailing how the decision on layoffs is to be communicated to the general workforce, to unions or worker representatives (where these exist) and to the individuals selected for redundancy.

## References

These guidelines draw on the UK's Advisory, Conciliation and Arbitration Service (ACAS) *Advisory Booklet on Redundancy Handling*, March 2008 and adidas Group's internal *Factory Termination Standard Operating Procedure*, July 2007. Other sources include: UC Santa Cruz, *Management Guide to Staff Layoffs*, January 2009; UCI Office of Human Resources, *Best Practices for Managing Layoffs: Practical Information for Managers & Supervisors*, February 2004; and Education Training Unit, *Paralegal Manual*, March 2008.

# **ANNEX A: Communicating With Employees**

## **Notifying the Employee of Layoff**

Notifying an employee that s/he is to be made redundant is difficult. No one likes to give bad news, and no one likes to receive it. The following describes how a factory manager or supervisor should conduct a notification meeting with an employee.

The objectives of the notification meeting are:

- To issue the written layoff notice
- To communicate clearly that the organisational decision is fixed and irrevocable
- To provide the facts behind the decision in a clear and straightforward way
- To encourage the employee to start thinking immediately about his or her future

## **The Role of the Manager or Supervisor**

Understand your role. You can expect reactions from the employee that could range from quiet shock to outright anger. These expressions are normal and to be expected under the circumstances. However, your skill in conducting the meeting can minimise negative reactions by helping the employee to focus immediately on what to expect next.

Some ideas for managing the meeting include the following:

- Be compassionate and show sincere understanding, but maintain focus on the message to be communicated
- Clearly state what is happening, without being rude or curt to the employee
- Listen carefully to the employee's response, but do not let the meeting drag on
- Be sure you communicate that you support the layoff decision. Do not blame the decision on a higher authority, and do not confuse the employee with personal opinions regarding the validity of the layoff decision.

## **Plan for the Meeting**

- Think through in advance what you are going to say
- Schedule the meeting for the day of notification, and start the meeting on time
- Do not allow the meeting to be interrupted, so have all phone calls and interruptions held
- Limit individual meetings to 10 to 15 minutes
- Clearly state that the layoff is grounded in business necessity
- Do not argue with the employee. Listen carefully and be supportive
- Assume the employee will be working the full notification period; however, there may be instances where they are to be immediately released. In either case, you should be prepared to inform the employee.
- Explain to the employee what happens next: notice period, calculation of severance and other benefits