

## **Chapter 8: Statutory Redundancy Pay and Consultation**

### Question 1

Morag is a senior lawyer working for a large, international law firm. There have been rumours in the legal press that the firm is in financial difficulties. In a recent email from the firm's Chairman, he acknowledged the press stories but said that the partners were making every effort to move the firm on to a more secure financial footing and that it was 'business as usual'. Two weeks ago, the Chairman emailed colleagues to say that the proposed plan to secure the business of the firm (which involved more equity being invested by partners) had been unsuccessful and that further attempts were being made to keep the firm going. In the past week a number of partners have left the firm, taken significant client business with them. Two days ago staff received an email to say that it was unlikely that salaries would be paid at the end of this month. This morning Morag has been told that the firm is going into administration and there will need to be significant job cuts, including her role. She is told that she can leave the firm immediately. Morag has already had a call from a recruitment consultant regarding a role at another firm. It is likely that she will find work again soon.

Advise Morag on any rights she may have.

### Commentary

Morag's dilemma concerns redundancy so you need to consider issues of whether there is a dismissal, possible unfair dismissal, failure to consult, and entitlement to redundancy pay. We are not told of how many employees are affected so there is no need for detailed discussion of the rules on collective redundancies. Good students may also be able to discuss employment rights in the context of insolvency (to the extent that this is covered in your course).

## Question 2

Wessex University has recently reviewed the programmes it offers to students. It has decided to focus on its core strengths, which have traditionally been in the natural sciences, engineering, and medicine. Where possible, staff from other departments will be moved to fit within these departments but, where subject specialists do not align with the new strategy, the university has decided that these roles will be redundant.

Wessex University has communicated its restructuring proposal to all staff via a series of 'town hall' meetings and a staff bulletin. It has explained that around 150 roles will be redundant and has invited employees to apply for voluntary redundancy initially. So far 80 employees have applied for voluntary redundancy and will receive enhanced redundancy payments.

The HR Director for Wessex University has now contacted you for advice on how to manage the redundancy process for the remaining 70 roles. She is aware that there has already been widespread publicity in the national press about the university's strategy. One article made reference to a redundancy process carried out two years previously which led to a high profile Professor winning a claim against the university for unfair dismissal. The HR Director wants to ensure that the correct process is followed this time.

## Commentary

This is a relatively straight forward question, which is asking you to show your detailed understanding of the law around collective redundancies. You will need, therefore, to show a careful understanding of section 188 of TULRCA and the definition of collective redundancies, together with relevant case law. The trickier part of this question relates to voluntary redundancies and whether these should be included in the numbers (it is likely that those employees will be caught as the University is proposing to dismiss around 150 employees and so the lengthier consultation period will apply) and whether the entire University can be treated as one establishment (which is likely) rather than individual departments.

Question 3

Critically consider how the law strikes a balance between organisational flexibility to structure its workforce to best meet changing demands with protecting the legitimate concerns of employees.

Commentary

This question primarily relates to the law on redundancies, which are often a result of restructures and so relevant topics for discussion here would include the definition of redundancy and consultation requirements, which are designed to help employees prepare and plan for new employment. Good students will also spot that the law relating to TUPE is also relevant here as one way of employers restructuring its workforce includes the possibility of insourcing or outsourcing roles, which would be caught as a service provision change. You might also wish to discuss how the law enables employers to alter terms and conditions to suit its needs and the use of 'some other substantial reason' as a potentially fair reason to dismiss and re-engage on revised contractual terms.