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ALTERNATIVES TO REDUNDANCY

Employment Update July 2009

In many organisations employee costs are the highest single item of expenditure and therefore redundancies can seem like the obvious choice for employers during these difficult economic times. Employers should, however, be aware of the long-term effects of this measure. For example a talented, experienced employee may be hard to replace once business improves, staff morale can be affected by redundancies and the company may suffer damage to their reputation from negative publicity etc.

There are a number of alternative measures which may prove more advantageous to the company as a whole, of which some are discussed below. Employers should be aware that in this difficult economic climate, employees may agree to various options which they would not usually do, in order that their job remains secure.

Reducing Remuneration

Employers should inform staff in advance and set out the cost/benefit elements of the measure. It is advisable for management to lead from the top in sharing any cuts. The measures should be limited in time with, perhaps a promise for improvement once market conditions change. As an alteration of a fundamental contract term the employer may face constructive dismissal or unlawful deduction from wages claims. Therefore the consent of employees should be sought.

Recruitment Freeze

This is an easy and cost effective measure. Coupled with natural attrition of employees this should reduce organisational costs and expenses. Legal issues may arise where an employer seeks to recruit an exceptional candidate during a recruitment freeze.

Reducing Non-Permanent Staff

Agency, temporary and casual staff are not employees or workers of the organisation so it is often legally simpler and cheaper to terminate their engagements. However, employers need to consider how the working arrangements are executed in practice to see if an employment relationship has been established through conduct of the parties.

Mobility/Redeployment/Retraining

If entitled to do so under the employment contract, an employer may seek to invoke relevant clauses to avoid a redundancy situation arising. For example, one department within a company may be quiet whilst another at a different location is very busy. A mobility clause may allow employees to be moved from one location to the other without the need to reduce the overall head count. Employers must always use mobility clauses reasonably and in the absence of a specific contractual provision the employer will have to obtain consent from the employee for changes to their place of work etc.

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ALTERNATIVES TO REDUNDANCY

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Temporary Stoppages

This may be achieved through a number of measures such as unpaid leave, lay-offs, reducing hours and requiring holiday leave to be taken at quiet times. Employers will require the employee's consent if there is not a contractual provision or a collective agreement allowing them to do so.

Overtime Bans

If there is a contractual right then the employer must obtain the employees consent to stop overtime.

Non Contractual Policies

Employers can amend policies for enhanced redundancy pay etc to meet changing commercial needs. Although stated to be non-contractual such policies can become contractual through regular application. Employers may wish to tighten up on travel/expenses policies for example by introducing advance approval requirements or a maximum spending limit.

Debenhams Ottaway can advise on Redundancy procedures and strategies for implementing the alternative measures discussed above. We offer businesses a free review of contracts and policies as part of the Employer Support Scheme. The Scheme fully protects your business against the financial exposure of an employment dispute for an agreed monthly or annual fee.

If you would like to know more about the subjects covered in this publication or our services, please contact:

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