



Jersey Employment Forum
Collective Redundancy Consultation
Unite Submission – June 2010

Introduction

Unite the Union is the UK's largest trade union with 1.5 million members and 4,500 members in Jersey across the private and public sectors. The union's members work in a range of industries including manufacturing, financial services, print, media, construction, transport and local government, food, agriculture, education, health and not for profit sectors. Unite seeks the views of our members through our lay member committees at national and regional level.

Redundancy affects not only individuals, but their families and local communities as well. For this reason Unite seeks to use all means possible to safeguard jobs. Our aim is always to reach agreements which avoid the need for compulsory redundancies and mitigate the consequences for those affected. Whilst we try to reach job security agreements which avoid redundancies completely, it is not always possible.

Unite believes that compulsory redundancies should be the last resort, considered only when measures such as the following have been tried:

- early consultation before job losses become inevitable;
- ending contracting-out and overtime working;
- moving people to alternative jobs with appropriate training and protection of pay and rights;
- suspending recruitment;
- ending the use of temporary and agency staff; and

- negotiating the introduction of short time working arrangements.

These steps are sometimes still not enough to prevent job losses. In this event we believe that volunteers should be sought before any compulsory redundancies are considered. There should be written agreements on the method of selection and compensatory payments. Counselling, time off for job interviews, help with retraining programmes and assistance with removal and travelling expenses should be made available to those affected by redundancy.

Questions

Question 1 - How many proposed redundancies should trigger the requirement for an employer to consult collectively where a workforce is not unionised?

- X 6 (the current threshold, as amended)
 21 (the threshold as previously recommended by the Forum)
 Other, please specify _____

Redundancies have become an all too depressing feature of the modern economic landscape.

However during these difficult times Jersey has performed well with total employment in Jersey in December 2009, full-time and part-time, at 53,700 which is 140 (0.3%) more than in December 2008.¹ This is the highest December employment total for twelve years. This is even more impressive when you consider that almost a quarter (24%) of the Jersey economy is in the Finance sector², which has been in global crisis.

¹www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20JerseyLabourMarketDec09%2020100331%20HH.pdf
²www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20JerseyLabourMarketDec09%2020100331%20HH.pdf

There were also 2,660 single-person undertakings recorded in December 2009, about 240 more than a year earlier.³

The number of people registered as unemployed in Jersey in December 2009 was 1,120, which was disappointingly some 450 more than the 670 recorded in December 2008.⁴

However when you put this into context and look at the internationally comparable measure of unemployment the International Labour Organisation, (ILO) unemployment rate. It can be seen that in the summer of 2009 Jersey's ILO unemployment rate, as measured by JASS, was 2.7%. Where as the UK's ILO rate during the second, third and fourth quarters of 2009 was 7.8%.⁵

The reason for this reflection on statistics from the outset is to try and put in context what we are talking about here. During a period of global recession Jersey has managed to keep stable levels of total and single person undertakings employment. Obviously more than the net 1,120 registered unemployed in the year to December 2009 have been made redundant. However even if the gross redundancy figure for Jersey in the past year was 2,500 then in the grand scheme of things it is still a small amount.

The point being that the numbers we are talking about are small and that's why Unite feel that 6 is the correct amount of redundancies that should trigger the requirement for an employer to consult collectively where a workforce is not unionised in Jersey's context.

It would be quite easy for a trade union to selfishly say a higher number than the proposed 6 in this non unionised situation in order to improve the incentive to join a trade union, where you would require a smaller number of redundancies requirement for an employer to consult collectively where a

³www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20JerseyLabourMarketDec09%2020100331%20HH.pdf

⁴www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20JerseyLabourMarketDec09%2020100331%20HH.pdf

workforce is not unionised. However this would be the wrong position to take and would mean that many workers in smaller companies who are in the unenviable position of facing redundancy, would become further exposed when they are most in need of protection. Therefore in this context Unite believes 6 is the correct number.

Question 2 - Assuming that the threshold must remain at 6 for non-unionised employees, should the collective consultation requirements apply where an employer is proposing to dismiss 6 or more employees within a period of -

- 30 days?
- X 90 days?
- Other period, please specify _____

Unite believe that a minimum of 90 days is necessary if there is going to be enough time for a constructive collective consultation process to take place between both the employer and the employee representative.

If the time scale was any shorter or indeed 30 days then it would reduce the opportunity to reach a resolution and in Unites opinion would lead to a greater number of Employment Tribunals, which in some cases may have been avoided if the collective consultation period was longer and had been allowed to run its course.

In addition a minimum of 90 days is an appropriate amount of time because if it was less or indeed 30 then it may give employers an incentive to strategically space redundancies out beyond the 30 days in order to avoid their collective consultation requirements. Of course there is nothing to stop employers spacing redundancies out beyond 90 days either but this longer timeframe does make it harder for employers to do so and protects workers more in the process.

⁵www.gov.je/SiteCollectionDocuments/Government%20and%20administration/R%20JerseyLabourMarketDec09%2020100331%20HH.pdf

Question 3 - Should the maximum protective award (penalty) that may be awarded by the Tribunal where an employer has failed to comply with the consultation requirements match the period you have selected in Question 2?

- Yes
X No

Unite does not believe that it is right to limit the maximum protective award (penalty) that may be awarded by a Employment Tribunal where an employer has failed to comply with the consultation requirements by the amount of days required in the consultation period.

Unites main reason for this is because we do not believe it accurately reflects the financial loss that a worker has suffered due to the punitive legal nature of a maximum protective award (penalty) and therefore fails to truly reflect the loss that workers due to no fault of their own have endured not just during the defined period, but beyond.

In addition a limit may give an employer the incentive to take a chance because it may be economically in their interests to do so in some situations due to the employer being able to know what a maximum limit would cost them, which is too heavily in the employers favour to be fair to workers.

Question 4 - Should weekly pay be capped for the purpose of calculating the protective award? (*Note - weekly pay is capped for the purpose of redundancy payments at current average earnings - £620.*)

- Yes
X No

Unite believes a cap is not appropriate because there may be instances when workers earn more then the proposed cap amount and they would obviously lose out again due to no fault of their own.

Unite also believes that the cap could be legally contestable because clearly the law would have been implemented in two different ways if a capped amount was allowed. Some workers would be getting their full weeks entitlements whilst others only up to the capped amount, which does not seem a fair interpretation of the law.

Question 5 - How many proposed redundancies should trigger the requirement for an employer to consult collectively where a workforce is unionised?

- X 2 (the current threshold, as amended)
- 6 (the threshold for non unionised employees)
- 21 (the threshold as previously drafted)
- Other, please specify _____

Unite believes that 2 is the appropriate amount of redundancies that should trigger the requirement for an employer to consult collectively where a workforce is unionised.

Unite believes the requirement for a unionised workplace should be lower than the 6 threshold for non unionised employees because workers who have paid to join a trade union should therefore have the right to be represented by their trade union. Therefore the law must make provision for this to take place.

Question 6 - Assuming that the threshold must remain at 2 for unionised employees, should the collective consultation requirements apply where an employer is proposing to dismiss 2 or more unionised employees within a period of -

- 30 days
- X 90 days
- Other period, please specify _____

Again Unite believe that a minimum of 90 days is necessary whether it is for 2 workers or 200 as it is the minimum entitlement that is needed if there is going

to be enough time to allow for a constructive collective consultation process to take place between both the employer and the trade union.

Question 7 - Should the law clarify that a claim for a protective award may only be taken to the Tribunal by union representatives and elected staff representatives, rather than individuals?

X Yes
No

Clearly as a trade union Unite has a self interest here. Unite strongly believe that it is a trade unions role to collectively negotiate on behalf of its members and supports any legislation that backs our fight to do this on behalf of the workers Unite represents. Individuals have the opportunity to join a trade union where they can be collectively represented alongside their fellow workers if they so choose. As a trade union, Unite believe this is the best way for workers to collectively achieve their aspirations together.

Question 8 - Do you have any other comments on this consultation paper?

Unite would like to take this opportunity to commend the States of Jersey Government for the collective redundancy rights that workers have in Jersey in comparison to the UK for instance. Unite strongly urges the States of Jersey Government to continue to set the standard and indeed raise the bar by improving the rights available to workers, who find themselves in a collective redundancy situation through no fault of their own.

For clarifications and more information please contact:

Nick Corbel - Jersey Regional Industrial Organiser – 01534 872584
Unite the Union
66 New Street
St Helier
Jersey
Channel Islands

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