



# Managing Redundancy

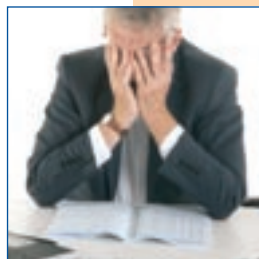
When an employer relocates, changes focus or there is a downturn in business, job losses often follow, but no matter how unavoidable the redundancy situation, there is a strict procedure which employers must follow to ensure that any resulting dismissal is fair.

Getting the procedure wrong can seriously threaten the reputation and long-term future of an organisation and causes unnecessary stress to employees, not to mention the risk of an employment tribunal claim.

The procedure to be followed depends on the number of employees who are at risk of redundancy. There are special provisions for "collective" redundancies (when the employer proposes making 20 or more employees redundant) but that process will be covered in a later issue.

Here, employment law solicitor, Natalie Ruane gives some tips for employers facing redundancy situations which involve less than 20 employees.

- Making someone redundant amounts to a dismissal. To ensure that the dismissal is not automatically unfair, the employer must ensure the three-step Statutory Dismissal and Disciplinary Procedure (DDP) is part of the redundancy process. Details of the DDP are available on our website at [www.burnetts.co.uk](http://www.burnetts.co.uk)



- Broadly, the redundancy procedure will include:
  - giving as much advance warning of impending redundancies as possible to employees likely to be affected;
  - inviting volunteers to come forward;
  - selecting employees to be dismissed on grounds of redundancy (see below for advice on fair selection);
  - notifying those who are potentially redundant. It is at this stage that the DDP will normally begin;
  - holding a meeting with those employees (and their representatives) to consult with them about the situation;
    - giving formal notice of dismissal; and
    - offering the right of appeal.

Throughout the process, consideration should be given to the availability of suitable alternative employment.

- Where an employer needs to dismiss only part of the workforce, the particular employees to be dismissed must be selected fairly. The employer will need to establish the "pool" from which the selection is to be made and then set objective selection criteria. It's essential to be aware of selection criteria which could be discriminatory on grounds such as sex, race, religion, disability, age, part time and fixed term status, pregnancy etc. For example, selection based on attendance records could easily lead to the selection of a disabled employee and this would be discriminatory treatment.

- If a business has over 100 employees, it may have in place procedures under the Information and Consultation of Employees Regulations, which give employees the right to be informed and consulted about matters including any impending redundancies. The Regulations will apply to businesses with over 50 employees from April 2008. Introductory information is available at [www.acas.org.uk](http://www.acas.org.uk)

Handling redundancy is a difficult process, often made more complicated by strong emotions. If you are considering redundancies or would like further advice on the duties which arise from the Information and Consultation of Employees Regulations, contact Burnetts' employment law team on 01228 552222.



Natalie Ruane

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A biannual update for Burnetts' commercial clients

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## Wind Farms Risk National Security



**A Public Inquiry into a wind farm development in North East England is to hear that the 18 turbine scheme may be a risk to national security.**

Doug Claxton is Burnetts' environment expert and accredited by the Solicitors' Regulation Authority for his planning law expertise. A key adviser at the Inquiries into six major wind farm schemes across the north, he says that applications for wind farms will continue to increase despite new worries that they could adversely affect national security and concerns for the landscape.



Doug Claxton

Although changes in government policy have obliged local authorities to be more supportive of such planning applications, the Ministry of Defence is now launching at least one wind farm objection on the grounds that wind turbines interfere with Air Defence radar and may put national security at risk. The MOD has some evidence that, to radar, the movement of the turbine blades may be indistinguishable from moving aircraft. They argue that a wind farm development could impede their ability to protect UK airspace.

Doug says, "Any district with large upland or coastal areas is susceptible to wind farm applications – I expect that the local authorities with those types of areas will have three or four schemes in the pipeline. Most will end up being decided at a Public Inquiry. In Cumbria the biggest argument against wind farms relates to the adverse impact on our landscape although there are usually arguments about the effectiveness of wind power too. This emerging evidence from the Ministry of Defence could have a big impact on proposed wind farm sites near other MOD radar stations around the UK."

Doug also expects to see many more applications for schemes. He said, "Given the thrust of government policy and government concerns regarding CO2 emissions and global warming, I am convinced there will be an increasing number of wind farm applications."

For further advice or information on planning, contact Doug on 01228 552222

## Employment Law Update

Over 80 delegates attended Burnetts' annual employment law update on Wednesday 18th October at Carlisle Racecourse.

This year's programme included presentations from John Morris and Kuba Strycharczyk on Equal Pay issues & negotiating terminations as well as a review of the year's key employment law developments from Joanne Stronach.

Welcoming the group, John Morris said, "We began to host this update not so many years ago when there was just a few of us round the table in our library. It's wonderful to see how the attendance at these seminars has grown."

The session was also attended by a fully equipped sound and camera man! A short film of the event will soon be available on Burnetts' website.

For further information on Burnetts' seminars, visit [www.burnetts.co.uk](http://www.burnetts.co.uk)



### Also in this issue..

- History Repeated on FMD
- Handling Redundancy
- Midnight Memories

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## National Recognition for John

Burnetts' Senior Partner has been chosen to head a prominent Law Society committee.

Newcastle born John Morris has been appointed Chairman of the Employment Law Committee, an influential, national committee which advises the Government on employment law issues. John who leads Burnetts' six-solicitor employment law team took up his new part-time role in September.

John, 57, has spent his career working in northern England. He said, "I feel very honoured to have been recognised especially as a solicitor from the regions. There is a perception that difficult legal work can only be done in London."

*At Burnetts we advise on some very complex legal issues for some very high calibre clients. I'm delighted that the value of my experience from the provinces is being acknowledged."*

During his three year appointment, John expects to be taking a leading role in key employment law consultations with Government officials such as plans to overhaul the discrimination laws and changes to procedures for dealing with workplace grievances and disciplinary matters.

John Morris

Recently John was ranked as one of the North West's top 21 employment lawyers in Chambers UK, an independent listing of top lawyers.



## Midnight Memories of Shirley



Nearly 20 women from Burnetts in Carlisle joined Eden Valley Hospice's Midnight Walk in June in memory of their colleague Shirley

**Green who died of cancer, aged 45, on 4th May 2007.**

Secretaries, legal executives, legal assistants, solicitors and managers were joined by Shirley's best friend Paula Cowan.

The Burnetts team was organised by secretary Sandra Telford, a dedicated fundraiser who recently helped raise over £400 for Macmillan through their "World's Biggest Coffee Morning" event. She also organises a regular Christmas fundraiser for the Hospice's Jigsaw Appeal.

Sandra said, "I found out about the walk from the Hospice's website. I thought the walk was such a good idea and I knew people here would enjoy it. We were all signed up and then Shirley died. On the night the weather was awful, but it was still a very special event."

The women raised £2,240.00 for Eden Valley Hospice on the 10km moonlit walk.

**To find out more about Eden Valley Hospice visit [www.edenvalleyhospice.co.uk](http://www.edenvalleyhospice.co.uk)**



## New partner strengthens expertise



**A new partner has been recruited into the firm's Personal Injury department.**

Nick Gutteridge, 41, has been tempted from a home in the Peak District and a South Manchester law firm by the reputation of his Burnetts' colleagues.

Nick, who is a member of the Solicitors Regulation Authority's Personal Injury Accreditation Scheme, said, "Head of department Richard Bain is well-known as an imposing litigator and Riekje Sefton has an international reputation for her work with head injured clients. I'm looking forward to working alongside Riekje and Richard and getting the opportunity to further develop my own skills. Personal injury lawyers can make a real difference to our clients' lives."

Nick will be looking after clients who have sustained catastrophic spinal or brain injuries in accidents on the road, at work or elsewhere as well as people with work-related illnesses and other injuries.

## Done Deals

Head of Corporate Law John Noctor continues to be the lead adviser on Cumbria's biggest deals.

Recent transactions include:

- the sale of Bowman's Chemists to Co-op Health Care. The Cumbrian chain was sold in July 2007.
- the purchase of a BMW dealership in Colne for Lloyd Motors Ltd. The prestige retail motor group now has four BMW dealerships.
- the sale of Borderway Insurance Broker's personal lines business to Swinton Insurance.

Meanwhile, Corporate Partner, Vaughan Jones led a team of lawyers acting for UCLan in the transfer of their Newton Rigg and Carlisle campuses to the new University of Cumbria. The team, which included Head of Commercial Property John Priddle and Partner Tony Lake, completed this huge project in August.

Multi-million pound deals are not exclusive to big business - Richard Miller from Burnetts' agricultural department has, this autumn, advised on the £2 million sale of a farm in Northumberland while a Cumbrian farm recently reached £3/4 million.



Vaughan Jones

## Protecting ideas - worldwide

Protecting ideas and intellectual property is a complex process, but if you're dealing with patents in 26 different countries, it's even more complicated!

Last year, John Noctor acted for the Nuclear Decommissioning Authority (NDA) in its high profile acquisition of United Kingdom Nirex Limited and its subsidiaries. Now, he and his team have the task of transferring UK Nirex patents which are registered throughout the world.



Working with patent agents in London, and lawyers in countries as far flung as Albania, China and the USA, John is now ensuring that the patents, which relate to inventions for deep waste storage, are properly re-assigned to the NDA.

John said, "Intellectual property is an intangible asset, but for a lot of companies the potential value is huge so it's essential that these transfers are properly done. It is fascinating to see the legal arrangements in different parts of the world."

## History Repeated on FMD



**Despite their losses, it will be difficult for livestock auction marts, livestock hauliers and other affected agri-businesses to claim compensation for their losses resulting from the recent outbreak of foot and mouth disease.**

The same is true of most farmers, with only those, whose animals have been culled or infected being entitled to compensation despite the much wider damage inflicted on the rural economy.

Agricultural organisations and associations are now suggesting legal action, but that won't be the first time a dispute over foot and mouth compensation has been before the courts. Ironically a 1965 High Court case centred on an outbreak from the very same Pirbright site, which is the source of the 2007 outbreak.

Head of Dispute Resolution, Michael Cousins, says: "That case was brought by two firms of livestock auctioneers, but the court ruled that they weren't entitled to compensation for loss of profit due to the closure of the marts, because the Institute then operating at Pirbright had a duty of care only to owners of cattle in the neighbourhood, which might be infected or culled, but no wider duty. That ruling still applies."

Although DEFRA acts as licensor, regulator and inspector of the Pirbright site, Michael's view is that a court would be unlikely to rule that DEFRA owed a widespread duty of care and that there would be virtually no chance of compensation being awarded for pure financial loss

At [www.defra.gov.uk](http://www.defra.gov.uk), the Government's position on compensation is explained: "Compensation is not paid for loss of earnings. Market impacts of animal disease are a risk carried by the industry."

Since the 2001 outbreak Michael has represented auction marts in claims against DEFRA over non-payment of fees for valuing animals due for culling.

**If you would like to discuss your options following FMD or over any other commercial claim, contact Michael Cousins on 01228 552222.**

