

BRISTOL CAB REDUNDANCY PACK

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What is Redundancy

Redundancy means that you are sacked because your job is no longer needed.

This can happen if the business:

- goes bust
- closes down
- moves to another area
- has changed the way it does things.

If you're told that you are being made redundant, but think that none of the above circumstances apply; it may be that the dismissal is unfair. If you think this has happened, you could get compensation and you should get advice. You can get advice from your trade union, if you belong to one. There are time limits and procedures you have to follow to get compensation for **unfair dismissal** so don't delay before you get advice.

Deciding who to make redundant

When employers are choosing who to make redundant, they must make the decision in a fair way. They mustn't **discriminate** against anyone. For example, they aren't allowed to choose you for redundancy because of your age. However, they are allowed to take into account how long you've been working for them. If you think you have been unfairly chosen for redundancy, get advice.

Offering you another job

Your employers might offer you another job instead of making you redundant. This has got to be suitable for you and there are rules about what would be considered suitable. You could lose out on redundancy pay if you turn down a suitable job so get advice if you are thinking of doing this.

When your employer makes you redundant, they must follow certain procedures.

For example, they must give you notice of the redundancy. The minimum period of notice is:

- one week if you have worked for your employer for one month but less than two years; *or*
- two weeks if you have worked for your employer for two whole years; *and*
- one additional week for each further *whole* year's employment up to a maximum of twelve weeks' notice in total.

Your employment contract might say that you must be given more notice than this, but it can't be less. If there are a number of employees being made redundant, your employer has to follow special, additional procedures.

If your employer doesn't follow the proper procedures, the dismissal may be unfair and you could get compensation.

Time off to look for another job

Once you've been given notice of redundancy, you may have the right to have time off to look for another job. You must have worked for your employer for at least two years to get time off, unless your contract says something else.

Redundancy pay

Once you've been made redundant, you may have a right to redundancy pay. Your employment contract might say how much redundancy pay you'll get. Otherwise, you'll get a set amount of money (as long as you've worked for your employer for at least two years). This is called a **statutory redundancy payment**. How much you'll get will depend on how long you've worked for your employer and how old you are. There's a limit on the amount of money you'll get.

If your employer doesn't give you the proper notice, you may also have the right to pay to compensate for the fact that you weren't given notice. This will be on top of your redundancy pay. You should also get all the holiday pay due to you.

If you have the right to a redundancy payment but your employer doesn't give it to you, you'll have to **take out a grievance** against them.

You must do this in writing. If you still don't get your money, you can make a claim to an **employment tribunal**. If your employer has gone bust, you could get a payment from the government. There are time limits within which you must take action, so don't delay, and get advice if you need to.

Money matters

If you have been made redundant, and haven't got another job to go to, you'll need to think about your money situation. You might get cash help from the government or local authority (**benefits**). For example, you might get Jobseeker's Allowance (JSA), Child Tax Credits, Housing Benefit, Council Tax Benefit, free school meals for your children and help with NHS costs.

Benefits depend on your circumstances. You should claim benefits as soon as you can - you can make a claim on your first day of unemployment. To claim JSA, go your local jobcentre.

A redundancy payment might affect your right to claim benefits and also might affect your tax position.

Your pension won't be affected. You'll still get your pension when you reach retirement age or when your employment contract says you will.

You might need advice about any debts you might have and how to budget to avoid future debt. If you are buying something on credit, check whether you've got a **payment protection insurance policy** that will pay off the credit/ mortgage payments if you are made redundant.

2. HOW MANY WEEKS STATUTORY REDUNDANCY PAY SHOULD I GET?

Age	Service (Years)																			
	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
17*	1																			
18	1	1½																		
19	1	1½	2																	
20	1	1½	2	2½	-															
21	1	1½	2	2½	3	-														
22	1	1½	2	2½	3	3½	-													
23	1½	2	2½	3	3½	4	4½	-												
24	2	2½	3	3½	4	4½	5	5½	-											
25	2	3	3½	4	4½	5	5½	6	6½	-										
26	2	3	4	4½	5	5½	6	6½	7	7½	-									
27	2	3	4	5	5½	6	6½	7	7½	8	8½	-								
28	2	3	4	5	6	6½	7	7½	8	8½	9	9½	-							
29	2	3	4	5	6	7	7½	8	8½	9	9½	10	10½	-						
30	2	3	4	5	6	7	8	8½	9	9½	10	10½	11	11½	-					
31	2	3	4	5	6	7	8	9	9½	10	10½	11	11½	12	12½	-				
32	2	3	4	5	6	7	8	9	10	10½	11	11½	12	12½	13	13½	-			
33	2	3	4	5	6	7	8	9	10	11	11½	12	12½	13	13½	14	14½	-		
34	2	3	4	5	6	7	8	9	10	11	12	12½	13	13½	14	14½	15	15½	-	
35	2	3	4	5	6	7	8	9	10	11	12	13	13½	14	14½	15	15½	16	16½	
36	2	3	4	5	6	7	8	9	10	11	12	13	14	14½	15	15½	16	16½	17	
37	2	3	4	5	6	7	8	9	10	11	12	13	14	15	15½	16	16½	17	17½	
38	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	16½	17	17½	18	
39	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	17½	18	18½	
40	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	18½	19	
41	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	19½	
42	2½	3½	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	
43	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
44	3	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	
45	3	4½	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	
46	3	4½	6	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	
47	3	4½	6	7½	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	
48	3	4½	6	7½	9	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	
49	3	4½	6	7½	9	10½	12	13	14	15	16	17	18	19	20	21	22	23	24	
50	3	4½	6	7½	9	10½	12	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	24½	
51	3	4½	6	7½	9	10½	12	13½	15	16	17	18	19	20	21	22	23	24	25	
52	3	4½	6	7½	9	10½	12	13½	15	16½	17½	18½	19½	20½	21½	22½	23½	24½	25½	
53	3	4½	6	7½	9	10½	12	13½	15	16½	18	19	20	21	22	23	24	25	26	
54	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	20½	21½	22½	23½	24½	25½	26½	
55	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22	23	24	25	26	27	
56	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	23½	24½	25½	26½	27½	
57	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25	26	27	28	
58	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	26½	27½	28½	
59	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28	29	
60	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	29½	
61+	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	30	

Maximum amount of weekly pay to be taken into account when calculating a redundancy payment is **£330** per week.

If the employer has become insolvent

If the employer is insolvent you should claim your **statutory** redundancy payment from the National Insurance Fund. If you are entitled to **contractual** redundancy pay from the employer, you cannot claim it from the National Insurance Fund but will have to make a claim to the receiver/liquidator as a creditor.

Redundancy Payments Office Bristol and South West The Insolvency Service

Cobalt Square
8th-9th Floors, 83-85 Hagley Road
Birmingham, B16 8QG

Tel: 0121 456 4411

Fax: 0121 455 7178

E-mail: birmingham.rpo@dti.gsi.gov.uk

Redundancy Payments Office Helpline

Tel: 0845 145 0004

If the employer has ceased trading but is not insolvent

You may be able to apply for *statutory* redundancy pay from the National Insurance Fund even if the employer has not formally been declared insolvent. This may happen where the employer has ceased trading or is unable to pay because of financial difficulties. In the latter case, the employer must show that making the redundancy payment would put the future of the business at risk and that you cannot obtain further credit. The employer will be expected to pay back the Fund as soon as possible.

Before making a payment from the National Insurance Fund, the Department for Business, Enterprise and Regulatory Reform Redundancy Payments Office (RPO) will need to be sure that the employee is entitled to statutory redundancy pay from the employer and either that:-

- the employer is insolvent and a liquidator/receiver has been appointed; *or*
- The employer is not legally insolvent but you have taken all reasonable steps to recover the redundancy pay and the employer has failed to pay it - see next paragraph.

You will be expected to have made attempts to recover the statutory redundancy pay owed from the employer. This will usually mean going to an employment tribunal, but this may not be necessary if you have written to your employer asking for the pay and can prove to the National Insurance Fund that your employer has become insolvent, your employment has been terminated and that you are entitled to the redundancy pay. However, if you do go to an employment tribunal and the decision is in your favour, this may be sufficient to obtain a payment from the National Insurance Fund where the employer refuses to pay.

If you have a *contractual* right to more redundancy pay than the amount given by statute, you cannot claim the extra contractual amount from the National Insurance Fund. To recover the difference, you will have to make a claim to

the receiver/liquidator as a creditor. If the tribunal finds that the employer should pay *contractual* redundancy pay but the employer still does not pay it, you will have to enforce the decision in the court.

If the employer refuses to make a redundancy payment

Refusal of statutory redundancy pay

If you have a **statutory** right to a redundancy payment and the employer does not make the payment, you will have to make a claim to an employment tribunal to get the money.

You will have to raise a written grievance with your employer about the redundancy pay before a tribunal will accept your claim.

If your employer fails to pay or claims you are not entitled to it, you should make a written request to the employer for the payment and apply to an employment tribunal.

You must make an application to an employment tribunal to claim a redundancy payment ***within six months of when your dismissal for redundancy takes effect.***

However, you must be aware that if you are also claiming **unfair dismissal** or **discrimination, claiming for wages owed under the Employment Rights Act 1996** or **claiming breach of contract**, the time limit to apply to a tribunal is **three months**.

Refusal of contractual redundancy pay

If you have a *contractual* right to a redundancy payment, and the employer does not pay the full amount owed, the employer will be in breach of contract. You can make a claim to an employment tribunal for breach of contract, or you can sue the employer in the court to get the money, for example, if you have passed the time limit to go to a tribunal.

	Contributory – based on national insurance contributions.	Non-contributory – For people with special circumstances	Means-tested – based on your income and savings	Tax credits – for people on low incomes
Unemployed (available for work)	contribution-based JSA	child benefit (if children)	income-based JSA housing benefit council tax benefit	child tax credit (if children) working tax credit (if partner working)
Pregnant	Employment support allowance statutory maternity pay statutory paternity pay	child benefit (if other children) maternity allowance	income-based JSA/income support housing benefit council tax benefit Healthy Start Scheme	child tax credit (if other children) working tax credit
On low wages (working at least 16 hours a week)		child benefit (if children)	pension credit (if over 60) housing benefit council tax benefit	child tax credit (if children) working tax credit
Bringing up children		child benefit	income-based JSA/income support pension credit (if over 60) housing benefit council tax benefit	child tax credit working tax credit (if working or partner working)
Off work ill for under 28 weeks	Employment support allowance statutory sick pay	child benefit (if children)	Employment support allowance housing benefit council tax benefit	child tax credit (if children) working tax credit
Disabled / off sick for 28 weeks or more or	Employment support allowance	disability living allowance (if claimed under 65) attendance allowance (if over 65) benefits for industrial injury or disease child benefit (if children)	Employment support allowance pension credit (60 or over) housing benefit council tax benefit	child tax credit (if children) working tax credit (if partner working) including any disability and severe disability elements
Caring for someone who is sick or disabled		carer's allowance also consider benefits for the disabled person child benefit (if children)	income support pension credit (60 or over) housing benefit council tax benefit benefits for the disabled person	child tax credit (if children) working tax credit (if working or partner working) (including any disability and severe disability elements)
Reached pension age	retirement pension (80 or over extra)	disability living allowance (if claimed under 65) attendance allowance(if over 65) child benefit (if children)	pension credit housing benefit council tax benefit	working tax credit (if working or partner working) child tax credit (if children)
Widowed /bereaved civil partner (women and men)	widowed parent's allowance bereavement allowance bereavement payment	child benefit (if children)	income-based JSA/income support pension credit (60 or over) housing benefit council tax benefit	child tax credit (if children) working tax credit (if working)

Standard Letters

1. Grievance

[Employee's name and address]

By recorded delivery

[Date]

[Manager's / employer's name and address]

Dear [insert manager's/employer's name]

Re: Grievance

I am writing to tell you that I wish to raise a grievance. I believe that I am an employee and that the Employment Act 2002 (Dispute Resolution) Regulations 2004 apply. If you do not agree that I am an employee or believe that the regulations do not apply, please confirm this in writing immediately.

My [grievance[s] is/are] about the following circumstances:

[explain every element of complaint for example]

Unauthorised deduction from wages. On each of my last 3 pay slips, there is a deduction of £18 for 'cleaning uniform'. I have never authorised this deduction and I wash my uniform myself, therefore I am owed £54.

Failure to allow me paid holidays. I have the right to 24 days' paid leave per year. I have made 3 requests to take my holidays and every time you have refused. This happened on [insert start and finish dates, if appropriate].

For grievances where there has been no dismissal: I understand that you will arrange a meeting with me to discuss these points. I am entitled, if I wish, to be accompanied by another work colleague or my trade union representative. Please reply within **[not more than 28]** days of the date of this letter.

For grievances following dismissal if the employee does not want to meet with the employer: I understand that you will arrange a meeting with me to discuss these points. Alternatively, should you prefer to use the modified grievance procedure, I am willing to forgo the meeting and await your written response.

Yours sincerely

Signed(employee)

[Name of employee (in capitals)]

2. Appealing against a dismissal and raising a grievance

[Employee's address]
[Date]
[Recorded delivery]

[Employer's name]
[Employer's address]

Dear [manager's/employer's name]

Grievance(s) and appeal against dismissal/disciplinary action

In accordance with the Dispute Resolution Regulations 2004, I am writing to you with regard to the following:

[enter case here]

I wish to appeal against my dismissal. I do not believe that my dismissal was justified and I believe that I have been treated unfairly **[set out brief reasons why]** .

Furthermore, I would like to make **a grievance/grievances** with regard to the following:

[list grievances, for example

- **[I have still not received my accrued holiday pay for untaken]
[holiday in the current leave year, and]**
- **[I am still owed outstanding commission for the sales I completed]
[before my dismissal (set out amounts if known) and]**
- **[I am owed 4 weeks' contractual notice pay]** .

I understand that you will arrange an appeal meeting with me to discuss all these points. I am entitled, if I wish, to be accompanied by another work colleague or my trade union representative. Please reply within not more than 14 days of the date of this letter.

I look forward to hearing from you within 14 days

Yours sincerely

Signed (employee)
[Name of employee in capitals]

Further help:

www.adviceguide.org.uk

www.acas.org.uk

www.direct.gov.uk

www.bristolcab.org.uk

www.jobcentreplus.gov.uk

ACAS:

08457 474747

Bristol CAB advice line

0844 499 4718

Avon and Bristol Law Centre

0117 916 7730

St Pauls Advice Centre

0117 927 9120 (only BS2 and 5)

South Bristol Advice Centre

0117 985 1122 (only BS1, 3, 4, 13)

Age Concern

0117 922 5353 (over 55's)

North Bristol Advice Centre

0117 951 5751 (Postcode restricted to this area)

East Bristol Advice Centre

0117 378 9200 (Postcode restricted to this area)

Redundancy Payments Office Bristol and South West

The Insolvency Service

Cobalt Square

8th-9th Floors, 83-85 Hagley Road

Birmingham, B16 8QG

Tel: 0121 456 4411

Fax: 0121 455 7178

E-mail: birmingham.rpo@dti.gsi.gov.uk

Redundancy Payments Office Helpline

Tel: 0845 145 0004

Benefit Enquiry Line:

Tel: 0800 88 22 00