

Fire and Re-hire

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This sparked wide range shock at the very blatant disregard for the law, namely that of having a meaningful consultation, and has resulted in calls being made for P&O Ferries to repay the £11 million it received from the government during the coronavirus pandemic to furlough its staff.

Where employers are planning to make 20 or more staff redundant within any 90-day period, they must first consult staff and speak to trade union representatives. The key is that this consultation needs to be 'meaningful' and very much a two-way process between employer and employee. If this doesn't happen, employees are entitled to take their employer to a tribunal.

With a 103% rise in planned redundancies between January and February 2022, together with increases in interest rates, rising energy costs and the cost-of-living crisis, this should act as a cautionary tale to businesses. If employers are considering redundancy, they must ensure that they follow the collective consultation rules carefully. The government has also indicated that a new statutory code of practice covering fire and rehire will be introduced in due course. An employer who unreasonably fails to comply with the code when it is introduced would risk an uplift of up to 25% being awarded on relevant tribunal compensation.

In addition to the financial implications of ignoring the collective consultation regime, the likely media interest and ongoing reputational damage may well be an incredibly hard hurdle for businesses to get over.

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