



Collective Consultation - The Five Minute Guide

By **Dónall Breen** - 30 July 2020

A large scale reduction in force can sometimes seem like an employment law minefield, but it doesn't have to be. In this brief guide, we take a whistle-stop tour through what you need to know.

First, when does a redundancy exercise turn into a collective consultation? An employer needs to collectively consult with their employees when it has a proposal for 20 or more dismissals at one establishment within a 90 day period.

Collective consultation involves providing employee representatives with certain statutory information about the proposed dismissals and consulting with them about the plans. In particular, the consultation should cover any ideas the employee representatives may have of avoiding the dismissals, reducing the number of dismissals and reducing the impact of the dismissals.

Employee representatives will need to be elected if you do not already have an appropriate body in place (which many UK employers will not). For further information on electing employee reps, see [here](#).

There is no minimum time requirement for a collective consultation. However, you must start collective consultation and submit your HR1 form (which provides high level information about the proposed dismissals for job centre planning) to the Secretary of State in good time and at least 30 days before the first dismissal (or 45 days before the first dismissal if you have 100 or more proposed dismissals). Click [here](#) for further information about the timelines you need to consider.

The key to a successful collective consultation is planning. The employers that have the smoothest process share the following two key traits:

- Well-considered plans that are documented in organisation charts and FAQs.
- A careful communication strategy that is consistently applied throughout the process.

Having these will mean faster resolution of issues. There will be fewer meetings as employee representatives will have less questions to ask. In such a case, the collective consultation process may only take a couple of weeks.

After the collective consultation is finished, individual redundancy consultation will still need to be carried out with those employees at risk of redundancy.

It is possible to give employees notice of termination prior to the end of the 30 (or 45) day period, so long as their employment does not actually end prior to that period.

The question that may immediately come to mind is whether it is possible to avoid collective consultation? There are three factors that will decide this: time, location and risk.

First, it is possible to do so if dismissals are spread over a longer period (so that there is no 90 day period with 20 or more dismissals proposed), but the additional wage costs for retaining employees for longer will often make this option unpalatable.

Secondly, if dismissals are spread over employees at multiple sites, then it is possible that these different sites would be treated as different establishments and the threshold for collective consultation may not be met. Further, the test is on an employer by employer basis, therefore proposed dismissals elsewhere in a group will not count towards a particular group company's 20 threshold for collective consultation.

Finally, it may be tempting to simply ignore collective consultation and take the risk. This is rarely a viable option. If a successful claim is brought for failure to collectively consult with affected employees, the award is up to 90 days' pay (uncapped) per affected employee. Affected employees can be more than just those who are ultimately made redundant. Also, a failure to submit an HR1 form to the Secretary of State can result in criminal penalties.

If you would like more detailed guidance on collective consultations check out our [large-scale redundancy FAQs](#).