

Release from the organization

GENERAL CONSIDERATIONS

The employment relationship may be ended voluntarily by someone moving elsewhere. Or it may finish at the end of a career on retirement. Increasingly, however, people are having to go involuntarily. Organizations are becoming mean as well as lean. They are terminating the relationship through redundancy and they are tightening up disciplinary procedures to handle not only cases of misconduct but also those of incapability – as judged by the employer. Resourcing policies and practices concerning release from the organization have also to cover voluntary turnover and retirement.

Causes of redundancy

Redundancy, like the poor which it helps to create, has always been with us. At one time, however, it was mainly a result of adverse trading conditions, especially during times of recession. This is, of course, still a major cause of redundancy, exacerbated by the pressures of global competition and international recession. But the drive for competitive advantage has forced organizations to 'take cost out of the business' – a euphemism for getting rid of people, employment costs being the ones on which companies focus, as they are usually the largest element in their cost structures. The result has been delayering (eliminating what are deemed to be unnecessary layers of

management and supervision) and 'downsizing' (another euphemism) or even 'right-sizing' (a yet more egregious euphemism).

The introduction of new technology has contributed hugely to the reduction in the number of semi-skilled or unskilled people in offices and on the shop floor. But the thrust for productivity (more from less) and added value (increasing the income derived from the expenditure on people) has led to more use of such indices as added value per £ of employment costs to measure business performance with regard to the utilization of its 'human resources' (the use of human resources in this connection implies a measure of exploitation). Business process re-engineering techniques are deployed as instruments for downsizing. Benchmarking to establish which organizations are in fact doing more with less (and if so how they do it) is another popular way of preparing the case for 'downsizing'.

Setting higher performance standards

The pressure for improved performance to meet more intense global competition explains why many organizations are setting higher standards for employees and are not retaining those who do not meet those standards. This may be done through disciplinary procedures, but performance management processes are being used to identify under-performers. Properly administered, such processes will emphasize positive improvement and development plans but they will inevitably highlight weaknesses and, if these are not overcome, disciplinary proceedings may be invoked.

Voluntary release

Of course, people also leave organizations voluntarily to further their careers, get more money, move away from the district or because they are fed up with the way they feel they have been treated. They may also take early retirement (although this is sometimes involuntary) or volunteer for redundancy (under pressure or because they are being rewarded financially for doing so).

Managing organizational release – the role of the HR function

The HR function is usually given the task of managing organizational release and, in its involuntary form, this is perhaps the most distasteful, onerous and stressful of all the activities with which HR people get involved. In effect, the function is being asked to go into reverse. Having spent a lot of positive effort on employees' resourcing and development, it is now being placed in what appears to be an entirely negative position. HR people are indeed acting, however unwillingly, as the agents of the management who made the 'downsizing' decisions or want to 'let someone go'

(there are more euphemisms in this area of management than the rest of the areas put together). Being placed in this often invidious position means that there are ethical and professional considerations to be taken into account, as discussed below.

A more positive aspect of the function's involvement in organizational release is the part HR people can play in easing retirement and analysing the reasons given by employees for leaving the organization so that action can be taken to correct organizational shortcomings.

Ethical and professional considerations

HR professionals may have no choice about taking part in a 'downsizing' exercise – that is, if they wish to remain with the organization. But they can and should make an important contribution to managing the process in order to minimize the distress and trauma that badly handled redundancies can create, or the distress and bad feeling that unfair or uncouth disciplinary practices can engender. They can press for policies and actions that will minimize, even if they cannot eliminate, involuntary redundancy. They can emphasize the need to handle redundancies sensitively, advising line managers on the approach they adopt, helping them to communicate the decision to employees, advising generally on communication within and outside the organization and laying on counselling and outplacement services. Professionally, they should ensure that there are proper redundancy procedures (including those relating to consultation) which are in line with codes of practice and legal requirements, and they must see that these practices are followed.

Similarly, a professional approach to discipline means that HR specialists should ensure that there are disciplinary procedures which conform to codes of practice and take into account legal implications. They have to communicate these procedures to line managers, provide training in how they are applied and advise on their use. Ethically, personnel professionals should do their best to see that people are treated fairly in accordance with the principles of natural justice.

Career dynamics

Career dynamics is the term used to describe how careers progress within organizations or over a working life. As long ago as 1984 Charles Handy forecast that many more people would not be working in organizations. Instead there would be an increase in the number of outworkers and subcontractors facilitated by information technology. He also predicted that there would be more requirements for specialists and professionals (knowledge workers) within organizations. In later books (eg *The Empty Raincoat*, 1994) he developed his concept of a portfolio career – people changing their careers several times during their working lives, either because

they have been forced to leave their jobs or because they have seized new opportunities.

The national culture has changed too. High levels of unemployment seem set to continue, more people are working for themselves (often because they have to) and short-term contracts are becoming more common, especially in the public sector. Some commentators believe that organizations are no longer in the business of providing 'life-long careers' as they slim down, delayer and rely on a small core of workers. Clearly, this is taking place in some companies, but employees do not all necessarily see it this way. The IPD 1995 survey established that 46 per cent of their respondents viewed their current job as a long-term one in which they intended to stay. However, 16 per cent saw their present job as part of a career or profession that would probably take them to different companies and 15 per cent saw their job as one they would leave as it was not part of their career.

Organizational release activities

Against this background, organizational release activities as described in this chapter deal with redundancy, outplacement, dismissal, voluntary turnover and retirement.

REDUNDANCY

'Downsizing' is one of the most demanding areas of people management with which HR professionals can become involved. Their responsibilities, as discussed below, are to:

- plan ahead to achieve downsizing without involuntary redundancy;
- advise on and implement other methods of reducing numbers or avoiding redundancy;
- encourage voluntary redundancy if other methods fail;
- develop and apply a proper redundancy procedure;
- deal with payment arrangements for releasing employees;
- advise on methods of handling redundancies and take part as necessary to ensure that they are well managed.

HR specialists should also be involved in organizing outplacement services as described in the next section of this chapter.

Plan ahead

Planning ahead means anticipating future reductions in people needs and allowing natural wastage to take effect. A forecast is needed of the amount by which the workforce has to be reduced and the likely losses through employee turnover. Recruitment can then be frozen at the right moment to allow the surplus to be absorbed by wastage.

The problem is that forecasts are often difficult to make, and in periods of high unemployment, natural wastage rates are likely to be reduced. It is possible therefore to overestimate the extent to which they will achieve the required reduction in numbers. It is best to be pessimistic about the time it will take to absorb future losses and apply the freeze earlier rather than later.

Ideally, steps should be taken to transfer people to other, more secure jobs and retrain them where possible.

Use other methods to avoid redundancy

The other methods that can be used to avoid or at least minimize redundancy include, in order of severity:

- calling in outside work;
- withdrawing all subcontracted labour;
- reducing or preferably eliminating overtime;
- developing worksharing: two people doing one job on alternate days or splitting the day between them;
- reducing the number of part-timers, remembering that they also have employment rights;
- temporary lay-offs.

Voluntary redundancy

Asking for volunteers – with a suitable pay-off – is one way of relieving the number of compulsory redundancies. The amount needed to persuade people to go is a matter of judgement. It clearly has to be more than the statutory minimum, although one inducement for employees to leave early may be the belief that they will get another job more easily than if they hang on until the last moment. Help can be provided to place them elsewhere.

One of the disadvantages of voluntary redundancy is that the wrong people might go, ie good workers who are best able to find other work. It is sometimes necessary to go into reverse and offer them a special loyalty bonus if they agree to stay on.

Outplacement

Outplacement is the process of helping redundant employees to find other work or start new careers. It may involve counselling, which can be provided by firms who specialize in this area.

Redundancy procedure

If you are forced to resort to redundancy, the problems will be reduced if there is an established procedure to follow. This procedure should have three aims:

- to treat employees as fairly as possible;
- to reduce hardship as much as possible;
- to protect management's ability to run the business effectively.

These aims are not always compatible. Management will want to retain its key and more effective workers. Trade unions, on the other hand, may want to adopt the principle of last in, first out, irrespective of the value of each employee to the company. An example of a procedure is given in Chapter 58.

Handling redundancy

The first step is to ensure that the redundancy selection policy has been applied fairly. It is also necessary to make certain that the legal requirements for consultation have been met. The information to be presented at any consultative meetings will need to cover the reasons for the redundancy, what steps the company has taken or will take to minimize the problem and the redundancy pay arrangements. An indication should also be given of the time scale. The basis for selecting people for redundancy as set out in the redundancy policy should be confirmed.

It will then be necessary to make a general announcement if it is a large-scale redundancy or inform a unit or department if it is on a smaller scale. It is best if the announcement is made in person by an executive or manager who is known to the individuals concerned. It should let everyone know about the difficulties the organization has been facing and the steps that have been taken to overcome them. The announcement should also indicate in general how the redundancy will take place, including arrangements for individuals to be informed (as soon as possible after the general announcement), payment arrangements and, importantly, help to those affected in finding work through outplacement counselling or a 'job shop'.

If it is a fairly large redundancy, the media will have to be informed, but only after the internal announcement. A press release will need to be prepared, again indicating why the redundancy is taking place and how the company intends to tackle it.

The next step is to inform those affected. It is very important to ensure that everything possible is done to ensure that the interviews with those who are to be made redundant are handled sensitively. Managers should be given guidance and, possibly, training on how to deal with what is sometimes called (another euphemism) a 'release interview'. It may well be advisable for a member of the personnel function to be present at all interviews, although it is best for the line manager to conduct them. Advance information should be obtained on the reasons why individuals were selected and how they may react. Their personal circumstances should also be checked in case there are any special circumstances with which the interviewer should be familiar.

The interview itself should explain as gently as possible why the individual has been selected for redundancy and how it will affect him or her (payment, timing etc). Time should be allowed to describe the help that the organization will provide to find another job and to get initial reactions from the individual which may provide guidance on the next steps.

OUTPLACEMENT

Outplacement is about helping redundant employees to find alternative work. It involves assisting individuals to cope with the trauma of redundancy through counselling, helping them to redefine their career and employment objectives and then providing them with knowledgeable but sensitive guidance on how to attain those objectives.

Job shops

Help may be provided by the organization on an individual basis, but in larger-scale redundancies 'job shops' can be set up. The people who staff these scour the travel-to-work area seeking job opportunities for those who are being made redundant. This is often done by telephone. Further help may be given by matching people to suitable jobs, arranging interviews, training in CV preparation and interview techniques. Job shops are sometimes staffed by members of the personnel function (the writer successfully organized one in an aerospace firm some years ago). Alternatively, the organization may ask a firm of outplacement consultants to set up and run the job shop and provide any other counselling or training services that may be required.

Outplacement consultancy services

As described by Eggert (1991), the outplacement process usually takes place along the following lines:

- initial counselling – gaining biographical data and discussing immediate issues of concern;
- achievement list – clients write up all the achievements they can think of to do with their career;
- skills inventory – clients develop from the achievement list a personal portfolio of saleable skills;
- personal statement – clients develop a personal statement in 20 to 30 words about what is being presented to the job market;
- personal success inventory – those recent or appropriate successes that can be quantified and which support the personal profile;
- three jobs – identification of three possible types of job that can be searched for;
- psychological assessment – development of a personality profile with a psychologist;
- development and agreement of a CV (see below);
- identify job market opportunities;
- practice interview;
- plan job search campaign.

CVs

CVs provide the basic information for job searching and an outplacement consultant will guide individuals on how to write their CVs. The traditional CV uses what Eggert (1991) calls the ‘tombstone’ approach because it reads like an obituary. It sets out personal details and education and employment history in chronological order.

Outplacement consultants prefer what they call the ‘achievement CV’ which is structured on the principle of a sales brochure, providing information in simple, positive statements sequenced for the reader’s convenience. The CV lists the most important areas of experience in reverse chronological order and sets out for each position a list of achievements beginning with such words as ‘set up’, ‘developed’, ‘introduced’, ‘increased’, ‘reduced’ and ‘established’. This is designed to generate the thought in the reader’s mind that ‘if the individual can do it for them, he or she will be able to do it for us’. The career achievement history is followed by details of professional qualifications and education, and personal information.

Selecting an outplacement consultant

There are some highly reputable outplacement consultants around; there are also some cowboys. It is advisable only to use firms that follow a code of practice such as that produced by the CIPD or the Career Development and Outplacement Association.

DISMISSAL

The legal framework

The legal framework is provided by employment statutory and case law relating to unfair dismissal. Under current UK employment legislation, an employee who has been employed for one year or more has the right not to be unfairly dismissed. Complaints by an employee that he or she has been unfairly dismissed are heard by employment tribunals.

Definition of dismissal

Legally, dismissal takes place when:

- the employer terminates the employee's contract with or without notice – a contract can be terminated as a result of a demotion or transfer as well as dismissal;
- the employee terminates the contract (resigns) with or without notice by reason of the employer's behaviour in the sense that the employer's conduct was such that the employee could not be expected to carry on – this is termed 'constructive dismissal';
- the employee is employed under a fixed-term contract of one year or more which is not renewed by the employer when it expires;
- an employee resigns while under notice following dismissal;
- an employee is unreasonably refused work after pregnancy.

Fundamental questions

The legislation lays down that employment tribunals should obtain answers to two fundamental questions when dealing with unfair dismissal cases:

1. Was there sufficient reason for the dismissal, ie was it fair or unfair?
2. Did the employer act reasonably in the circumstances?

Fair dismissal

Dismissals may be held by an employment tribunal to be fair if the principal reason was one of the following:

- incapability, which covers the employee's skill, aptitude, health and physical or mental qualities;
- misconduct;
- failure to have qualifications relevant to the job;
- a legal factor that prevents the employee from continuing work;
- redundancy – where this has taken place in accordance with a customary or agreed redundancy procedure;
- the employee broke or repudiated his or her contract by going on strike – as long as he or she was not singled out for this treatment, ie all striking employees were treated alike and no selective re-engagement took place;
- the employee was taking part in an unofficial strike or some other form of industrial action;
- some other substantial reason of a kind that would justify the dismissal of an employee holding the position that the employee held.

Unfair dismissal

Dismissals may be unfair if:

- the employer has failed to show that the principal reason was one of the admissible reasons as stated above, or if the dismissal was not reasonable in the circumstances (see below);
- a constructive dismissal has taken place;
- they are in breach of a customary or agreed redundancy procedure, and there are no valid reasons for departing from that procedure.

The onus of proof is on employers to show that they had acted reasonably in treating the reason for dismissal as sufficient. The employment tribunal is required, in considering the circumstances, to take into account the size and administrative resources of the employer's undertaking.

Reasonable in the circumstances

Even if the employer can show to a tribunal that there was good reason to dismiss the employee (ie if it clearly fell into one of the categories listed above, and the degree of

incapability or misconduct was sufficient to justify dismissal), the tribunal still has to decide whether or not the employer acted in a reasonable way at the time of dismissal. The principles defining 'reasonable' behaviour on the part of an employer are as follows:

- Employees should be informed of the nature of the complaint against them.
- The employee should be given the chance to explain.
- The employee should be given the opportunity to improve, except in particularly gross cases of incapability or misconduct.
- Employees should be allowed to appeal.
- The employee should be warned of the consequences in the shape of dismissal if specified improvements do not take place.
- The employer's decision to dismiss should be based on sufficient evidence.
- The employer should take any mitigating circumstances into account.
- The employer should act in good faith.
- The offence or misbehaviour should merit the penalty of dismissal rather than some lesser penalty.

A good disciplinary procedure (see the example in Chapter 58) will include arrangements for informal and formal warnings and provisions to ensure that the other aspects of discipline are handled reasonably.

Remedies

Employment tribunals that find that a dismissal was unfair can make an order for reinstatement or re-engagement and state the terms on which this should take place. The tribunal can consider the possibility of compensation for unfair dismissal, but only after the possibility of reinstatement or re-engagement has been examined.

Approach to handling disciplinary cases

The approach should be governed by the following three principles of natural justice:

1. Individuals should know the standards of performance they are expected to achieve and the rules to which they are expected to conform.
2. They should be given a clear indication of where they are failing or what rules have been broken.
3. Except in cases of gross misconduct, they should be given an opportunity to improve before disciplinary action is taken.

There should be a disciplinary procedure which is understood and applied by all managers and team leaders. The procedure should provide for the following three-stage approach before disciplinary action is taken:

1. informal oral warnings;
2. formal oral warnings, which, in serious cases, may also be made in writing – these warnings should set out the nature of the offence and the likely consequences of further offences;
3. final written warnings, which should contain a statement that any recurrence would lead to suspension, dismissal or some other penalty.

The procedure should provide for employees to be accompanied by a colleague or employee representative at any hearing. There should also be an appeal system and a list of offences that constitute gross misconduct and may therefore lead to instant dismissal. Managers and supervisors should be told what authority they have to take disciplinary action. It is advisable to have all final warnings and actions approved by a higher authority. In cases of gross misconduct, team leaders and junior managers should be given the right to suspend, if higher authority is not immediately available, but not to dismiss. The importance of obtaining and recording the facts should be emphasized. Managers should always have a colleague with them when issuing a formal warning and should make a note to file of what was said on the spot.

VOLUNTARY LEAVERS

When people leave of their own volition, two actions may be taken: conducting exit interviews and analysing reasons for turnover as described in Chapter 25.

RETIREMENT

Retirement is a major change and should be prepared for. Retirement policies need to specify:

- when people are due to retire;
- the circumstances, if any, in which they can work on beyond their normal retirement date;
- the provision of pre-retirement training;
- the provision of advice to people about to retire.

Pre-retirement training can cover such matters as finance, insurance, State pension rights, health, working either for money or in a voluntary organization during retirement and sources of advice and help. The latter can be supplied by such charities as Help the Aged and Age Concern.