Relocation – HR Issues and Employment Law
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When a company moves, both the employer and employee will have certain rights and obligations.

The location where staff work forms part of their contract of employment and any move will give rise to a change in the terms of the employment contract.

If an employer moves the location of their business, the employee’s situation depends firstly on the terms of their contract of employment. Some contracts include a ‘mobility clause’ which may state employees have to move within certain limits. Such mobility clauses can compel an employee to move to a new location and in circumstances allowed by the clause provided the terms are reasonable.

Key issues that the employer should take into account when relocating:

- The distance the company intends to move
- Transport links at the new location
- The number of employees who will be affected by the move
- The number of employees involved who have to care for children under the age of 16 or older and/or vulnerable adults
- The proposed timescales and whether these are reasonable relative to the distance
- Allowing sufficient time for consultation with employees and giving employees notice of an intended move in good time
- Practical issues for employees
  - Transport concerns
  - Loss of access to amenities and facilities compared with the current location

In terms of contracts, the employer must consider:

- Whether a mobility clause is present in the contract of employment and whether this is adequate in the context of the proposed move.
- If reasonable notice has been provided to employees of the intended move and whether adequate consultation has taken place
- Whether a relocation package should be offered to employees
- Whether a trial period is offered at the new location

Discrimination is another important factor to consider when relocating:

- The relocation must not adversely affect an individual or particular group of employees
- The employer must consider the reasonable requirements of any disabled worker(s)
- The employer must address disabled access or transport issues in respect of the new premises.

The options available if the employee does not wish to relocate

If the employee does not want to relocate, redundancy may occur because:

- The job at the current location no longer exists
- The employee is offered an alternative, but refuses the offer as it is unsuitable
Whether the employer has to pay redundancy depends on a number of factors. This will include the length of time the employee has been working. However, the most important factor is whether the employee has ‘unreasonably’ refused the offer of suitable alternative work.

There is no fixed distance to which is ‘reasonable’ as it depends on the circumstances. For example if the new location is just a few miles away and easily accessible by car or public transport, it would be ‘unreasonable’ for the employee to refuse the offer. However, if the change in location involves a difficult journey or affects personal issues, it may be ‘reasonable’ for the employee to refuse.

Redundancy is a form of dismissal so the employee may consider an unfair dismissal claim if they feel badly treated.

The employer must therefore:

- Consider each individuals circumstances in respect of the move
- Provide reasons for moving to the employees
- Consult with employees before reaching a final decision
  - If more than 20 employees are affected, the company will need to elect staff representatives to undertake collective consultation.
  - If more than 20 employees are affected in a 90-day period, the employer must follow a detailed consultation process and procedure and inform the Secretary of State.

Useful Links

Handling Redundancy: http://www.acas.org.uk/CHandler.ashx?id=877&p=0

Employment Location: http://www.hrmanager.co.uk/con_terms_relocat.htm

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