

# When work restructures

**My boss is looking at restructuring. What are my rights and obligations?**

An employer contemplating a restructure must follow a fair process. If the employment agreement outlines a process, then that must be followed as well.

The employer should make a tentative decision on what needs to be done and why. Any potentially affected staff need to be spoken to individually (unless impractical).

Employees should be told of the purpose of the meeting in advance so it is not a complete shock.

At the meeting, employees should be told the reasons some changes are being looked at, and that it is possible that their position may change.

It is important at this point that no decisions have been made.

The employees must be given the details of what is proposed and must be asked for their input into the proposals.

Employees can make comments and ask questions at the meeting, but also need to be advised that they can have time to get back to the employer.

The amount of time depends on the scale of the restructure and what is reasonable to prepare feedback.



## LEGAL MATTERS

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The employer should tell employees of their rights to get a representative to give them advice. The employer must consider all suggestions received.

Employees must provide feedback and suggestions if they want those taken into account.

The employer needs to make any further investigations necessary.

Once all investigations have been completed, the employer makes the decisions on what is to happen.

If the proposal has changed significantly, more consultation may be necessary.

The employer should set up a further meeting for each individual (if practical) and repeat the right to bring a representative.

At the meeting the employer should advise each staff member individually what the decision is. It is usual also to provide this in writing at the time.

Redeployment into another role must be fully considered before dismissing for redundancy.

If there is another role available, the employee needs to be advised and given a chance to consider and reply.

If the employee rejects the other roles offered, the employer has to advise them that their position is redundant, or that they will be deemed to have resigned if they have rejected a suitable alternative position (this may be set out in their employment agreement).

If the employee's position is to be totally redundant, then the employer gives them notice and advises of any redundancy payment (subject to the employment agreement terms).

If the situation changes (for example, a suitable position becomes available) during the notice period, then the employer must offer any redundant employees the chance to be reassigned into the role. This applies even if the employee is not working out their notice period and has left.

A restructuring is a complicated process and it is important that employers and employees know where they stand as the process progresses.

**Following the earlier column on trees, H asked where she stood and what her rights were in relation to leaves and flowers blowing on to her property from the neighbours, blocking her guttering.**

Your best way of resolving this is by direct communication with your neighbour. Unfortunately, leaves and flowers on their own are unlikely to enable you to get a court remedy.

Leaves falling are not likely to be able to be stopped and are not likely to result in a court decision in your favour. You could request the neighbour to cut back the branches to the boundary and to install some gutter guard in your guttering to keep the leaves out.

If the neighbour will not cut the branches back, you can do this, but you would have to pay unless you got the Disputes Tribunal involved.

If the neighbour will not agree to your requests, try filing a claim with the Disputes Tribunal.

■ Column courtesy of Rainey Collins Lawyers. Phone 0800 733 484. If you have a legal inquiry you would like discussed in this column, email Alan on [aknowsley@raineycollins.co.nz](mailto:aknowsley@raineycollins.co.nz).