

**Guidelines on what to do
if wage reductions and
retrenchments are
unavoidable**

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SECTION ONE

PRACTICAL ALTERNATIVES TO WAGE REDUCTIONS OR RETRENCHMENTS

1.1 This section provides some practical alternatives to wage reductions or retrenchments. Many of them have been successfully adopted by local employers to increase productivity and cut costs without resorting to wage reductions or retrenchments.

Alternatives employers may consider

1.2 The following are some alternatives which employers may wish to consider:

Human resource management measures

- Reduce the payroll by natural wastage, voluntary exit and voluntary retirement schemes.
- Take the opportunity to train and upgrade the skills of employees to enhance their productivity and to meet new needs.
- Deploy some members of the present workforce to fill the vacancies created, and provide training if necessary.
- Suspend recruitment of new staff.

Other revenue-generating or cost-saving measures

- Scrutinize and trim, where possible, the budget of each Division or Section of the organisation.
- Negotiate reductions in costs with suppliers.
- Bring down overheads by across-the-board economies on all aspects of the operations including savings on electricity, copying machines and all office procedures.
- Look for economical ways to advertise or promote the products.
- Try to develop new products or expand into new markets.

How employees can help

1.3 Employers must be open and frank with their employees regarding their business problems. They should seek the understanding and cooperation of their employees on ways to reduce costs. It is important to consult consultative committees, staff associations or in-house unions as part of this process. Do not dismiss out of hand or belittle employees' initial suggestions. What at first appears to be a crude suggestion may contain the germ of a valuable idea. Front-line employees are best placed to suggest labour-saving and other improvement measures.

1.4 In addition, consider these measures:

- Organize regular cost-saving meetings involving staff.
- Build up employees' sense of participation in efficiency enhancement and encourage them to express their ideas.
- Offer incentives to winners of Best Idea Schemes and stage regular prize presentation ceremonies.
- If business has tapered off, encourage employees to take holidays due to them. Reassure them that their jobs will be secure on return.

What employees should do

1.5 Faced by economic downturn, employees should adopt a positive attitude and fully cooperate with their employers to overcome the adversity. You should:

- Show sympathy to your employer's situation and sincerely suggest ways to improve efficiency at work.
- Actively cooperate with your employer to carry out revenue-generating and cost-saving measures.
- Further sharpen your skills to help the your employer capture every business opportunity.

SECTION TWO WHEN WAGE REDUCTIONS ARE UNAVOIDABLE

What employers should do

2.1 If wage reduction is absolutely unavoidable, employers are strongly advised to hold frank and sincere discussions with their staff. You should be aware that failure to do so often causes messy labour disputes. You should make a personal appeal to all employees, take them into your confidence and call for their support. You should also adopt a caring approach to your staff and recognize that employees are important stakeholders in the organisation.

2.2 If your organisation has consultative committees, staff associations or in-house unions, this would facilitate discussion and consultation with your staff. If not, take the opportunity to set up such a mechanism for more effective communication. If you need help, please contact the Workplace Consultation Promotion Unit of the Labour Department for further advice. [See paragraph 4.3.]

2.3 To implement wage reductions, you must obtain the consent of your employees in advance. It is an offence for employers to unilaterally introduce wage reductions without securing their employees' agreement. Equally, it would be unlawful to introduce retrospective wage reductions.

2.4 Furthermore, the unilateral introduction of such reductions without the cooperation and agreement of employees would adversely affect staff morale, productivity and quality of service.

Key points to note

- If you are contemplating a wage-reduction exercise, please consult the Labour Officer in charge of the Labour Relations Division in your district as soon as possible [Addresses at Appendix I.] If the exercise is not handled properly, it may give rise to misunderstanding and dispute.
- Do not enter into any discussions with your staff with a "take it or else" attitude. While the position of your organisation may be serious, you should bear in mind that the livelihood of your employees and their families are also at stake.

- Draw up your proposals in consultation with senior management and operational staff. The proposals must be written clearly and communicated effectively to all staff.
- Brief all managerial staff so that everyone in the management structure is fully aware of the situation.
- Be flexible and conduct discussions with the utmost patience to avoid misunderstanding with employees. Explain to them that wage reduction is due to economic forces outside the organisation's control. Be generous in giving them time to consider your initial proposals.
- Be prepared to listen to the employees' views and feedback.
- Be prepared to offer employees a range of options or combined options, for example, part-reduction of fringe benefits or part-reduction of overtime rates combined with a lesser degree of reduced wages.
- If possible, try to introduce a positive element to your proposals by including some incentive measures so as to reward employees who increase productivity or improve efficiency, or who suggest viable money-saving innovations.
- Try to help individual employees who will be hardest hit by wage reductions, for example, those unable to meet their mortgage payments.

Consultation could be made easier by adopting some of these suggestions

- Try to avoid an across-the-board percentage reduction. Let senior staff show the way by accepting greater wage reductions in percentage terms than the general workforce. Where possible, also consider the possibility of exempting the low pay employees from wage reductions.
- Undertake to review the organisation's business performance regularly, say every three to six months and, when the situation begins to improve, to make appropriate adjustments to employees' wages.

- **Put forward the wage reduction proposal in writing, and at the same time allows a reasonable period of time for employees to consider whether or not to accept the proposal. The period for consideration will depend on the circumstances of each organisation, but in any case, employees should have between 7 and 14 days to consider the proposal.¹**
- **Assure employees that if the organisation's situation worsens still further, and retrenchment has to be considered, severance pay will be calculated at an employee's wage level before the wage-reduction scheme was introduced.**
- **To underline the employers' intent and sincerity, all assurances to employees should be in writing.**

What employees should do

2.5 Employees should try to appreciate their employer's problems, particularly in the economic downturn. If it is unavoidable for your employer, after exhausting all alternatives, to resort to wage reductions, you should show understanding and work together with your employer to face the difficulty.

2.6 **When faced with the proposed wage reduction, you should know that your employer cannot unilaterally impose the reduction without your consent. You should also know that your employer commits an offence under the Employment Ordinance if he insists on reducing your wages without your agreement.**

Key points to note

- 2.7 When you consider the proposal,
- Establish precisely the details of the proposed wage reduction. If in doubt or requiring more details, clarify with your employer and explain your personal difficulties.

¹ This period for considering the proposal should not be taken as the notice period required to terminate a contract of employment.

- If you have suggestions, put these forward either through your respective consultative committee, staff association or in-house union. If no such bodies exist in your organisation, take your ideas either to your immediate supervisor or to your employer.
- Factors to consider in deciding whether to accept the proposed wage reduction include:
 - the extent of the reduction and the effects on other benefits;
 - your personal circumstances;
 - your prospects of finding another job; and
 - your employer's business prospect.

This is an important decision, why not discuss with those who are close to you such as your family, fellow colleagues, and trade unions. The Labour Department stands ready to provide assistance to you.

- There are legal implications if you sign any agreement to reduce your wages. Try to secure an assurance from your employer for the appropriate adjustments of wages when business performance improves or for the calculation of severance pay, in the event of redundancy, at an employee's wage level before the wage reduction scheme was introduced.
- If your employer chooses to impose the proposed wage reduction without your consent, you should go to the nearby office of the Labour Relations Division of the Labour Department to lodge a claim. [See Appendix I for addresses of these offices.]

SECTION THREE WHEN RETRENCHMENTS ARE UNAVOIDABLE

What employers should do

3.1 Retrenchment is an extremely serious step. If there is absolutely no other choice, you must carefully weigh a number of highly important factors, foremost of which is that human beings are not statistics, and what is at stake is the livelihood and future security not only of those to be laid off, but their dependants, too.

3.2 Apart from the humanitarian factor, you must review existing and future manpower needs in relation to the market situation. Your goal should be to lay off as few members of your workforce as possible while taking account of the fact that this must virtually be a one-off exercise so that you can reassure all your remaining staff that their jobs are secure, at least within a certain timeframe.

3.3 Another most important factor is that when you contemplate such a severe step, you should do your homework very carefully to establish just how much it is going to cost to lay off a percentage of your workforce. You may even change your mind completely and turn to the cost-cutting and other alternative methods proposed in paragraph 1.2 to 1.4 of these Guidelines.

3.4 Nevertheless, if you have done your sums properly and remain convinced that retrenchment is the only course for your organisation, you must hold frank and open discussions with consultative committees, staff associations or in-house unions to explain to them fully the gravity of your organisation's problems and reasons for retrenchment.

3.5 In particular, you must be prepared to discuss with affected employees and their representatives everything from the simplest to the most detailed points involved in calculating termination compensation.

3.6 You must be patient and sympathetic in such discussions, and you need to show understanding and compassion. It is because retrenchment will surely create emotional or stressful sentiments. Remember, sentiments improperly handled could lead to unfortunate incidents.

Key points to note

- Ensure that the retrenchment criteria are objective, fair, non-punitive and non-discriminatory². In general, you may wish to use, as a yardstick, nature of work, job skills and related factors.
- Ensure that the termination package is no less favourable than that provided in the Employment Ordinance and the employment contract.
- To soften the blow of retrenchment, and to demonstrate additional support for people being forced on to the job market, you should also try to be as generous as possible with ex-gratia payments.
- Whatever the final payment decided upon, clearly explain all the details, and the methods of calculation, to each retrenched employee.
- At the same time, he or she should be given a reference on an organisation letterhead certifying that the retrenchment had to be made because of circumstances beyond the organisation's control and was unrelated to his or her performance.
- Make clear to retrenched employees that once the organisation's situation returns to normal, all retrenched employees would be given priority in future recruitment.

Other ways to demonstrate further support and compassion towards retrenched employees

- Continue to provide perks such as housing allowances/loans, education allowances, etc. for a reasonable period.
- If a redundant employee is occupying company quarters, allow him a reasonable breathing period before insisting on regaining the premises. Take into account the double jeopardy faced by such an employee who, having lost his job, must also give up the accommodation occupied by himself and his family.

² Make sure that you do not breach the provisions of the Employment Ordinance (Cap. 57), the Sex Discrimination Ordinance (Cap. 480), the Disability Discrimination Ordinance (Cap. 487) and the Family Status Discrimination Ordinance (Cap. 527)

- Provide counselling and other forms of assistance to retrenched employees to help them to find other jobs or refer them to the job centres of the Labour Department to seek employment services.
- Set up a hotline for employees who may not immediately comprehend all the details of such an abrupt development, and assign experienced officers to patiently answer questions about how retrenchment compensation or other financial aspects were calculated, or just to advise on other means of assistance.
- Do not include in the retrenchment exercise employees singled out for dismissal solely on the grounds of poor performance. That should be done separately. In any case, such inefficient and incompetent workers should no longer be on the payroll of a haemorrhaging company.

3.7 The pain of a retrenchment exercise does not disappear when it has been completed. It will be felt not only by those employees laid off but those who survived the retrenchment and kept their jobs. Rightly or wrongly, some survivors will feel that their sense of trust has been betrayed.

3.8 As a result, in post-redundancy relations with the remaining employees you must be even more sensitive and caring in your dealings with them, their staff associations and in-house unions. Not only will you need to keep up morale but also to counteract ill feeling and despondency that could affect productivity and quality of service.

3.9 Once business begins to improve, re-employ as many of your retrenched employees as you can afford.

What retrenched employees should do

3.10 If you are told that you are to be retrenched, you should take the following steps to protect your own interests:

- Establish exactly what your statutory and contractual entitlements are under the Employment Ordinance and your employment contract. Normally, the termination compensation includes wages, wages in lieu of notice if no notice is given, pro-rata annual pay leave, statutory holiday pay, and pro-rata end-of-year payment. You are also entitled to severance pay if you have been employed for two years or more.

- If in doubt about your entitlements -- or more particularly if your employer either reduces or possibly even refuses to pay termination compensation -- consult the Labour Department's Labour Relations Division in your district to lodge a complaint or get more information about the amount and method of calculation of what you are entitled to. [Addresses of these offices are at Appendix I.] You may also wish to consult your trade union(s).
- Go to the job centres of the Labour Department's Employment Services Division and register for alternative employment. [Details of these centres are at Appendix II.]
- Take the opportunity to equip yourselves and upgrade your skills and qualifications by attending courses organised by institutions such as the Employees' Retraining Board, the Vocational Training Council and the Open University.

3.11 In the present economic circumstances, when searching for a new job, you should try to understand more about the market situation and be prepared to make some adjustments, like accepting for the meantime a lower salary, or be more ready to travel longer distance to the new workplace. It is only when you are prepared to adjust to a new working pattern can you face other new challenges ahead.

3.12 Please remember, even faced with the current economic downturn, do not give in easily and lose your confidence. Labour Department will try its utmost best to provide all the assistance you need in resolving problems relating to your termination and helping you to find a new job.

SECTION FOUR SERVICES PROVIDED BY THE LABOUR DEPARTMENT TO EMPLOYERS AND EMPLOYEES

4.1 The Labour Department provides the following services to employers and employees.

Labour Relations Division

4.2 The Labour Relations Division provides a conciliation service to help employers and employees settle their disputes and claims. It also gives advice on matters relating to conditions of employment, provisions of the Employment Ordinance and good employment practices. For assistance, please approach its branch offices detailed at Appendix I.

Workplace Consultation Promotion Unit

4.3 Workplace Consultation Promotion Unit assists employers with consultation and voluntary negotiation on employment issues with their employees, address at 5/F, Mongkok Government Offices, 30 Luen Wan Street, Mongkok, Kowloon. (Tel. 2121 8690; Fax. 2121 8695).

Employment Services Division

4.4 Through a network of eleven job centres, the Employment Services Division provides free recruitment assistance to employers and employment services to job-seekers. Addresses and telephone numbers of the centres are at Appendix II.

Labour Department's 24-hour Telephone Enquiry Service

4.5 For general enquiry on the provisions of the Employment Ordinance, employment services information and other related labour matters, please call 2717 1771.

**Offices of the Labour Relations Division of the Labour Department
(March 2002)**

HONG KONG

Hong Kong East
12/F, AXA Centre,
151 Gloucester Road,
Hong Kong.

Hong Kong West
3/F, Western Magistracy Building,
2A Pokfulam Road,
Hong Kong.

KOWLOON

Kowloon East
Room G2, G/F,
Kai Tak Government Building,
5 Arrivals Road, Kowloon.

Kowloon South
2/F, Mongkok Government Offices,
30 Luen Wan Street,
Mongkok, Kowloon.

Kowloon West
Room 1009, 10/F,
Cheung Sha Wan Government Offices,
303 Cheung Sha Wan Road, Kowloon.

Kwun Tong
6/F, Kowloon East Government Offices,
12 Lei Yue Mun Road,
Kwun Tong, Kowloon.

NEW TERRITORIES

Tsuen Wan
5/F, Tsuen Wan Government Offices,
38 Sai Lau Kok Road, Tsuen Wan,
New Territories.

Tuen Mun
Room 2720, Tuen Mun Parklane Square,
2 Tuen Hi Road,
Tuen Mun, New Territories.

Kwai Chung
6/F, Kwai Hing Government Offices,
166-174 Hing Fong Road,
Kwai Chung, New Territories.

Shatin & Tai Po
3/F, Shatin Government Offices,
1 Sheung Wo Che Road,
Shatin, New Territories.

Enquiry Hotline: 2717-1771

**Job Centres of the Employment Service Division
of the Labour Department (March 2002)**

HONG KONG ISLAND

Hong Kong East Job Centre
12/F., AXA Centre, 151 Gloucester
Road, Wanchai, Hong Kong.
Tel. 2591 1318

Hong Kong West Job Centre
4/F., Western Magistracy Building,
2A Pok Fu Lam Road, Sai Ying Pun,
Hong Kong.
Tel. 2152 9442

*Employment & Guidance Centre
for New Arrivals (Hong Kong)*
12/F, Marina House,
68 Hing Man Street, Shaukeiwan,
Hong Kong.
Tel. 2114 6868

KOWLOON

Kowloon East Job Centre
G11, G/F., Kai Tak Government
Building, 5 Arrivals Road,
Kowloon City, Kowloon.
Tel. 2338 9787

Kowloon West Job Centre
9/F., Cheung Sha Wan Government
Offices, 303 Cheung Sha Wan Road,
Kowloon.
Tel. 2150 6937

Kwun Tong Job Centre
10/F., Kowloon East Government
Offices, 12 Lei Yue Mun Road,
Kwun Tong, Kowloon.
Tel. 2342 0486

*Employment & Guidance Centre
for New Arrivals (Kowloon)*
2/F., Hang Seng Mongkok Building,
677 Nathan Road, Mongkok, Kowloon.
Tel. 2931 3911

NEW TERRITORIES

Tsuen Wan Job Centre
2/F, Tsuen Wan Government Offices,
38 Sai Lau Kok Road, Tsuen Wan,
New Territories.
Tel. 2417 6197

Tuen Mun Job Centre
Units 5-10, 27/F., Tuen Mun Parklane
Square, 2 Tuen Hi Road, Tuen Mun,
New Territories.
Tel. 2463 9967

Taipo Job Centre
3/F, Tai Po Government Offices,
1 Ting Kok Road, Tai Po,
New Territories.
Tel. 2654 1429

Shatin Job Centre
2/F, Shatin Government Offices,
1 Sheung Wo Che Road, Shatin,
New Territories.
Tel. 2604 7916