

Redundancy: the inside story

People are often said to be a business' biggest asset, but they can also be one of its most expendable.

After all, it is the personnel who run an organisation, and even the most automated and computerised companies require some form of human input to work successfully.

However, the current global economic downturn has also taken its toll on firms across Bermuda and staff is often the first part of the business to be impacted.

During such tough times, an employer must balance keeping staff that provide extraordinary value in order to retain business with cutting costs to preserve their margin.

There are a number of steps a company can take to stay in business from reducing pay and benefits, and hours and unpaid time off to cutting spending on social events and non-personnel costs, as well as performance management.

The ultimate decision, however, is whether to make its employees redundant, in which case it needs to determine who will be affected and which positions will be terminated, when the redundancy is going to happen and to communicate that to the workers concerned.

Doug Soares, a partner at recruitment specialist Expertise Ltd., said the worldwide recession had caused the Island's employers to be faced with the paradox of making sure their staff maintains the highest levels of service while reducing overheads, which is — in Bermuda's case — personnel costs.

Mr. Soares said there were several factors that needed to be considered before terminating an employee's contract, but an employer also needed to take into account in a service economy like Bermuda whether doing so would cost them less in order for their business to remain viable.

He said his company, which is essentially a management consultancy, has helped firms look at the alternatives of cutting people costs rather than the people themselves through performance management by ensuring that objective job and performance standards are in place and that employees stick to, or preferably exceed, them.

"For too long many employers have not done a particularly good job of ensuring that employ-

It's a tough decision: nonetheless, in this economic climate, jobs are on the line. Alex Wright discovers why businesses must take the step to release their people, what it means to that business — and their employees

ees perform to a level to justify their compensation," he said.

"Now employers don't have the option to put up with sub-standard performance. So the first step is to ensure that everyone is as productive as possible and if they are not meeting job standards after being properly trained and given every chance to succeed, the employer should go through the path of terminating their employees."

Another option available to employers, Mr. Soares said, was to reduce non-personnel costs by engaging their staff in the process and finding ways to achieve this that they had not contemplated during better economic periods.

In addition, an obvious cost cutter is to reduce spending on social events and reducing hours of employees and/or insisting on unpaid time off in order to keep as many people as possible employed, as well as reduced pay and benefits, he added.

"The only thing employees really do fully appreciate is the employer's dilemma about cutting costs and that there is really no other choice," he said.

Mr. Soares said that once the decision has been taken to make a person redundant, the first course of action is to work out which posts and personnel will be directly impacted.

Then the employer must either follow a contract of employment or employment policy which stipulates how the employee's contract is terminated or determine themselves by looking at their least productive workers and those who add the least value and eliminate them first — the policy of the majority of Bermuda's businesses.

The next step, he said, was to establish the period of time over which the redundancy would take place in the form of notice required or payment in lieu of notice, an alternative many employers make to provide those laid off with some security while looking for a new job — with the likes of Expertise offering an

outplacement service to companies to assist their former employees in finding work through advice and support.

Finally, said Mr. Soares, firms needed to keep their staff informed about what was going on, why the necessary action had been taken and what the plan was for the business going forward.

Mr. Soares said that many employers consider redundancy to be a dirty word and have gone to great lengths to avoid any publicity surrounding the issue, but the economic crisis had forced them to be more open and transparent about what was really happening.

"The most important thing for an employer to do is for them to do it lawfully and as sensitively in terms of human dynamics as possible," he said.

Expertise began consultancy work for companies in September 2008 to find the best way to reduce people costs, during which time the demand for its services has grown, with a transition from financial services, such as fund administration and asset management, to construction, hospitality and retail as the recession deepens.

Mr. Soares said his company had provided outplacement services to more than 275 people over this period, but added that the vast majority of employees made redundant had not been offered such a service by their employer and he anticipated that more than 2,000 jobs had been terminated in Bermuda during the past 18 months, with more downsizing expected throughout 2010.

He said that a lot of the Island's employment had been exported during the economic downturn, with the volume of work permit renewals down on past figures — except for the re/insurance industry.

Meanwhile, the Department of Labour Relations has seen an increase in unfair dismissal claims; however, in most instances, it has been



WWW.DEWARS12.COM

DOUBLE
AGED
FOR A SMOOTHER TASTE



SUBSTANCE IS EVERYTHING
JOHN DEWAR & SONS SINCE 1846

ENJOY DEWAR'S RESPONSIBLY.
DEWAR'S 12 AND THE HIGHLANDER ARE REGISTERED
TRADEMARKS. THE 'MARRYING' SYMBOL IS A
REGISTERED TRADEMARK. 40% ALC BY VOL.

proven that the employer followed the letter of the law and its employment policy, and the complaint is dropped as a result.

Mr. Soares said the cost of making a person redundant can be very high due to the severance allowance that needs to be paid and the decision to make a person redundant should not be taken lightly, with longer-serving individuals owed more in payment than newcomers to the business.

"I think in Bermuda there is still a notion amongst employers that redundancy should be an absolute last resort, whereas in other jurisdictions business decisions are made much more rapidly about cutting the workforce," he said. "The level of thoughtfulness and due diligence about cutting the workforce in Bermuda is generally higher than in other jurisdictions."

"Employers are doing their absolute best to retain as many people as possible; however the trend towards outsourcing as a means of reducing costs has accelerated."

"For Bermuda, this means that with every workforce reduction the business people that are making the decision to build or restore those jobs in the future are considering whether it is possible to do that work in an overseas jurisdiction at a lower cost, so the economic reality about doing the work in the lowest cost manner is a stark reality."

"The recession has caused virtually every employer in every industry to scrutinise the way that their organisations do business, how they get work done and how much it costs to produce the service they are selling — but one great thing about the recession in the long run is it will make business in Bermuda better — here at Expertise our leadership team has shared with employees the concept, that as a result of the recession, we will be smaller but better because we are more efficient."

Jennifer Haworth, an associate at Conyers Dill & Pearman, said that in the past organisations would apply the last-in-first-out — Lifo — principle in making redundancies; however, due to the evolution in the selection process, employers might now typically choose a pool of people, draw up a set of criteria and be as objective as possible in order to arrive at a decision based on those factors, inform the employees of the results and give them a chance to discuss the conclusions before the final decision was made.

"If redundancies are not handled properly, employers may leave themselves open to unfair dismissal claims being made by their employees," she said.

"Unfair dismissal claims can provide higher damages awards and may also damage the employer's reputation should the findings be publicised."

"Employers should take care when making redundancies and should document the process."

Britt Reiss, president of The James Partnership, said that many companies have either had to make redundancies over the past year or reduce the number of their employees through attrition, with a lot of non-Bermudian work permits not being renewed.

"There are very few companies that have not been affected," she said. "Several reinsurance companies newer to the Island have experienced

growth and have been hiring, but this is a small number of employers."

"Many established companies have put hiring freezes into place or are limiting hires to only those that are absolutely necessary."

Ms Reiss said that employers would only turn to redundancies as a last resort, usually after exhausting other methods of retaining their staff, as for example, the recent hotel industry wage freeze. Other companies have asked employees to work a shorter week or fewer hours, she said.

"The James Partnership continues to register new career opportunities; however, we are seeing a spike in enquiries as to our outplacement/redundancy services," she said.

"Obviously, the economy has been grim for a while and this year, by no means, are we out of the woods."

"The last time I saw a market like this was in 1991, when I worked in the UK. It was the worst year in decades for graduate recruitment and new opportunities for existing employees."

"We have been quite spoilt by the jobs market in Bermuda and, for years now, I have advised candidates to keep their skills competitive nonetheless. That way, when the economic tides turn, they will be in a position of strength."

Kelly Francis, owner and senior consultant at Performance Solutions, said that every industry differs in its approach to cost cutting, with the hospitality and construction industries, for example, more likely to move straight to redundancies than other sectors that rely on a higher percentage of professional or salaried workers.

Ms Francis said that, from her experience, the professional industries, which make up the majority of her company's client base, identify the impact and scope of a redundancy action and view that as a worst-case scenario. Then they look at the alternatives, whether it means modifying the range of a job, the ability to redeploy workers into other positions or reduced working hours.

"When the economy struggles, cost containment becomes key and often non-essential benefits are the first to get downsized or cut completely," she said.

"That might mean foregoing or capping annual raises, cancelling the office parties, dropping gym memberships or anything that helps to reduce costs and preserve jobs wherever possible."

"We also see companies tighten their belts in other ways. Non-essential travel — conferences, trade shows, etcetera — drops when the economy is down, training budgets are reduced, primarily on soft skills like communications or networking, etcetera, and catering during business meetings is cut — anything that doesn't have a direct business impact."

Ms Francis said that employers faced the challenge of balancing the books in an economy that is having a devastating impact on revenue and keeping their staff employed.

"Employers know that their employees face a job market where they are unlikely to find work quickly and that makes the decision about redundancy even harder," she said.

"And, because employee tenure lengths have dropped over the last five to 10 years, employees who lose their jobs have less severance to tide them over until they find work again." 