

LAY OFFS AND SHORT-TERM WORKING

Legal considerations

There are detailed rules about laying employees off or adapting their normal working hours. Employers need to be careful to ensure that they don't breach any of the legislation and end up with claims for constructive dismissal

You should take advice from a suitably qualified human resources consultant or solicitor for your particular situation as there are many different points to consider.

As a starting point you should check the terms in your employment contracts with regard to layoffs and short-term working.

Thereafter the action you take will depend on such things as:

- Has the individual only just been offered a job and can the offer be withdrawn?
- Do you have agency workers or temporary staff – however these categories of workers also have rights which need to be clearly identified
- If the contract does not permit reduced hours and pay then the employer will need to reach agreement with the employees.
- Layoffs cannot be used indefinitely and the employee may be able to serve a written notice for a claim to redundancy if employed for more than 2 years and the lay off has been for more than 4 consecutive weeks (or a total of 6 weeks in any 13 week period).
- Short term working has similar rules to lay offs and the employee can argue redundancy if they have been paid less than half their normal remuneration in the relevant weeks.

In addition to the above consideration must be given to pension contributions, holiday entitlement, and possible redundancy calculations.