

## Employment E-Brief No. 94

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### WIDE MEANING GIVEN TO THE DEFINITION OF REDUNDANCY FOR THE PURPOSES OF COLLECTIVE CONSULTATION.

Where an employer proposes to make 20 or more employees redundant, collective (as well as individual) consultation is required. This involves a formal and constructive dialogue which must be had with the trade union or employee representatives.

The EAT has recently extended the scope of when these rules will apply. Now, even if an employer is not intending to make employees redundant, because of the possibility of redeployment or re-employment on new terms, the requirement to carry out collective consultation is still triggered.

In the case the company decided to close one of its offices. 26 employees were based there and some were to be redeployed. The tribunal therefore decided that there was no proposal to make 20 plus redundancies, so the collective consultation rules were not triggered.

However, the EAT overruled that saying that proposed variations of contract (in this case redeployment) will fall within the rules.

This significantly widens the scope of the rules on collective consultation and employers ought to be aware of it. Where before they may have felt able to avoid the rules by redeployment this is no longer the case. Obviously redeployment is preferable to redundancy but in order to safeguard an employer's business they will need to consider collective consultation issues; failure to do so could prove very expensive.

If ever you are in the position of carrying out redundancies on this scale it is essential to involve your legal advisors to make sure the process is carried out properly.

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