



Employment

Sabbaticals: a real alternative to redundancy?

It's a tricky predicament. Like many, you need to cut your payroll costs - and fast. Equally, you know that even for employers, redundancy comes at a price. Lets forget for one moment the direct costs of the redundancy exercise itself. If you have invested heavily in your workforce, you will be loathe to lose the skills and talent required for the eventual upturn (or even to see you through the tough times). And then there is the impact on workforce morale.

Its no surprise therefore that some employers are turning to sabbaticals to complement short time working and temporary lay-offs, as an alternative to redundancy. In January 2009, the BBC reported that about 2000 employees returned to work at Vauxhall's car plant in Cheshire after a month-long Christmas shutdown. On top of that, Vauxhall staff have been given the option of taking a sabbatical until September on 30% pay.

Paid or unpaid?

Paid sabbatical schemes carry their own considerations. The costs need to be carefully weighed up: the scheme may work for Vauxhall because the company has a reasonable degree of certainty over planned production later in 2009: i.e. Vauxhall may have calculated that the costs of redundancies would not be worthwhile, taking into consideration the recruitment and training costs required to support the new Astra production later this year.

Most employers are not in this position and so the merit in paid sabbaticals would be questionable. However, if redundancy costs are very high (for example, because staff have enhanced redundancy rights or early retirement rights, or simply because they are long serving) then offering

sabbaticals may be worthwhile, particularly where an employer has invested heavily in skilled staff. Any continuation of pay may be made conditional on staff returning to work for a minimum period (and subject to claw back provisions accordingly).

Unpaid sabbaticals may yet be a feasible option, depending on the make-up of your workforce. Even in today's economic climate, some employees may welcome the opportunity to take an unpaid sabbatical, particularly if they are guaranteed their job back (or redundancy severance) on their return.

Does employment continue or not?

Irrespective of whether a sabbatical is paid or unpaid, if you offer one in today's market, the attractiveness to employees will depend partly on whether the contract of employment subsists during their absence. Most employees cannot be forced to take a sabbatical and many would question the merit in agreeing one if their employment rights are not preserved. Assuming the contract of employment subsists during the sabbatical, then so will a host of statutory rights, including the right to claim unfair dismissal.

Can all staff apply and what terms should apply?

It follows that the terms of any sabbatical scheme would need to be carefully considered. A key consideration is who should be eligible: can you sensibly restrict eligibility by reference to length of service, job grades or skill types? Each option carries its own considerations - both legal and practical - and final approval should always be at the employer's discretion. Moreover, refusing the option of a sabbatical to some staff whilst granting it to others may serve to alienate valued staff (and in some cases, could give rise to discrimination liability).

The following questions also arise:

- Is the existing job guaranteed for return, or will a suitable alternative job suffice?

- Will the employee be entitled to redundancy severance if no job is available on return?
- What terms and benefits will apply during the sabbatical (holiday, bonus and pay review entitlement should be addressed amongst others)?
- Can the employee use the sabbatical to work elsewhere (if so, should you impose restrictions on working for competitors, given the economic climate)?
- Can the employer terminate the sabbatical at short notice if labour demands increase?

Historically, employers have relied upon sabbatical schemes to retain staff in a tight labour market. With some modification, the same schemes may yet assist employers to retain valued staff in today's recession. However, care should be taken to ensure that any sabbaticals offered in today's market are on terms that meet the changing business needs of the recession.



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