



## October Q&A's



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### **Q: We have an employee in a particular role that is on a high salary. He is costing the business a lot of money, can we make him redundant?**

A: To carry out a fair dismissal by reason of redundancy, the situation has to fall within the statutory definition of redundancy as set out at s 139 Employment Rights Act 1996: ". . .an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to;

- (a) the fact that his employer has ceased or intends to cease,
  - (i) to carry on the business for the purposes of which the employee was employed by him, or
  - (ii) carry on that business in the place where the employee was so employed, or
- b) the fact that the requirement of that business-
  - (i) for employees to carry out work of a particular kind, or
  - (ii) for employees to carry out work of a particular kind in the place where the employee was employed by the employer, have ceased or diminished or are expected to cease or diminish.

This means that if the employee is in a unique role, as a business you are making the decision that his post is to be made redundant. In other words, the requirement for work of that particular kind will come to an end. It is the job that goes (even if some of the workload is divided later on amongst other employees) and it is that fact which has to be communicated to the employee in a fair redundancy procedure. It is best to leave cost out of the discussion in a redundancy situation even though, of course, cost cutting is the background reason.

*If you have an employment question that you would like our experts to answer, please email the question to [solutions@cronerconsulting.co.uk](mailto:solutions@cronerconsulting.co.uk)*

### **About ADP**

ADP is the largest supplier of payroll services in the world. Present in 29 countries, paying 33 million people around the world every payday, and with over 50 years of unrivalled experience, ADP manages a wide range of payroll, benefits and HR administration and helps organisations to control their costs, streamlining their often labour-intensive processes, so freeing up personnel to concentrate on core business activity.