

Employment Law Seminar

Dealing with employment issues
in a recession

Practical guidance and case studies

Case Study 1

Introduction to the Company

The Company in this case study:

- Is privately owned
- Builds apartment blocks in city centres
- Is currently working on several sites
- Is experiencing a downturn in sales as a result of the current economic climate
- Is having to consider reducing staffing levels due to the downturn and in order to reduce costs
- Has identified approximately nine positions which may be redundant within the following departments
Construction, Surveying, Development and Sales and Lettings
- Has no in house HR support or any redundancy policy in place
- Would like advice regarding potential redundancies

Construction Department

SELECTION

1. CONSTRUCTION DEPARTMENT

The Construction Department comprises:

- Construction Director
- Project Construction Manager
- 3 x Senior Site Managers
- Engineering Manager
- Foreman
- Assistant Foreman
- Apprentice

The Company considers that it may no longer require three Senior Site Managers, due to the reduction in demand for properties and the consequent freeze on site acquisitions for the foreseeable future.

The Company considers that it could operate effectively with one Senior Site Manager. Two of the three positions are therefore at risk of redundancy.

The Senior Site Managers are collectively responsible for overseeing all sites currently under construction.

Questions

- 1.1 How should the Company identify the two Senior Site Managers who are at risk of redundancy? Should all three Senior Site Managers be placed in a selection pool?
- 1.2 Would your answer be different if each Senior Site Manager were responsible for specific sites?
- 1.3 The Company identifies an appropriate selection pool. Consider the selection matrix. Can you identify any potential issues in relation to the proposed selection criteria?
- 1.4 Who should carry out the scoring process?
- 1.5 Who would deal with the consultation process once the selection has been carried out and who would hear any appeal?

Surveying Department

2. SURVEYING DEPARTMENT

The Surveying Department comprises:

- Commercial Director
- 3 x Senior Quantity Surveyors
- Project Commercial Manager
- Project Quantity Surveyor
- 2 x Assistant Quantity Surveyors
- Trainee Quantity Surveyor
- Secretary
- Work Experience Assistant

The Company considers that there is no longer a requirement for three Senior Quantity Surveyors and two Assistant Quantity Surveyors.

The Company considers that it could operate effectively with two Senior Quantity Surveyors and one Assistant Quantity Surveyor. Two positions within the team of Quantity Surveyors are therefore at risk of redundancy.

A Senior Quantity Surveyor earns approximately £45,000 per annum. An Assistant Quantity Surveyor earns approximately £25,000 per annum.

Questions

- 2.1 Consider the job descriptions for the Senior Quantity Surveyor role and Assistant Quantity Surveyor role. Is it necessary to have two selection pools or one?
- 2.2 If there were two selection pools, what about dropping the selected Senior Quantity Surveyor into the Assistant Quantity Surveyor selection pool?
- 2.3 Who would carry out the scoring and selection process?
- 2.4 What about the Trainee Quantity Surveyor – should he be included in the selection process?

Development Department

3. DEVELOPMENT DEPARTMENT

The Development Department comprises:

- Development Manager
- Development Assistant

This Department is responsible for site acquisitions and initial planning applications.

The Company intends to impose a freeze on acquiring sites for the foreseeable future due to the reduction in sales.

It intends to finish its existing sites.

Consequently, the Company considers that there will not be any need for either of these roles for some time.

Questions

3.1 How should the Company approach this redundancy situation with the affected employees? Is it appropriate to apply selection criteria?

3.2 Should the Company consider these two individuals for any other alternative roles?

Sales and Lettings Department

4. SALES AND LETTINGS DEPARTMENT

The Sales and Lettings Department comprises:

- Sales Manager
- Lettings Manager
- Sales Administrator and
- Reception/Lettings Assistant

Due to the diminishing level of sales, the Company considers that it no longer requires a Sales Manager.

The Sales Manager earns £38,000 per annum and is the highest paid individual within the Department.

Questions

- 4.1 Should there be a selection pool within this Department? If so, what should it be?
- 4.2 Holly, the Lettings Manager, is pregnant and is due to start maternity leave in one month's time. Her position is not redundant and the Company is busy on the lettings side. However, Holly may be off on maternity leave for up to 1 year and the Company needs to cover her position during her absence. What options does the Company have?
- 4.3 If the Company were to offer Sophie a temporary contract to cover Holly's maternity leave, would Sophie still be entitled to a redundancy payment?
- 4.4 How would your answer be different if Sophie was pregnant and, by the time that her selection for reason of redundancy had been communicated to her, she was on maternity leave?

Procedure - The Consultation Process

PROCEDURE

5. THE CONSULTATION PROCESS

Now that the Company has identified the employees at risk of redundancy, what about consultation?

Questions

- 5.1 Who should the Company consult with in each department and what should be said in the initial meetings?
- 5.2 What should we be saying in the first letter?
- 5.3 What do we need to do before the second meeting?
- 5.4 What happens in the second meeting and do we need to have further meetings?
- 5.5 If no alternatives to redundancy have been identified, what happens next?
- 5.6 What if there is an alternative vacancy – how do we deal with that?

Job Description

Senior Quantity Surveyor

- Financial and commercial control of projects
- Dealing with tenders from contractors
- Identifying and addressing legal constraints
- Eliminating risk and managing project cost
- Producing accurate real time reports
- Achieving project targets whilst maintaining client and supply chain relationships
- Preventing disputes by dealing with difficult issues early and presenting resolutions to problems that arise
- Supervising Assistant Quantity Surveyors and more junior members of staff within the Surveying Department, where appropriate
- Reporting to Commercial Director and Chief Executive regarding the progression of each project

Job Description

Assistant Quantity Surveyor

- Working alongside Senior Quantity Surveyor and providing assistance with all matters including financial accounts and budgets for projects
- Managing smaller projects without supervision by Senior Quantity Surveyor and recognising when feedback and assistance is required
- Preparing cost estimates and strategic plans for required materials and labour
- Monitoring running costs to ensure projects are within budget once construction has begun and recognising when budgets need to be rectified or altered
- Performing risk assessments and managing cost control
- Advising on strategy where required alongside Senior Quantity Surveyor
- Assisting and establishing client and supply chain relationships

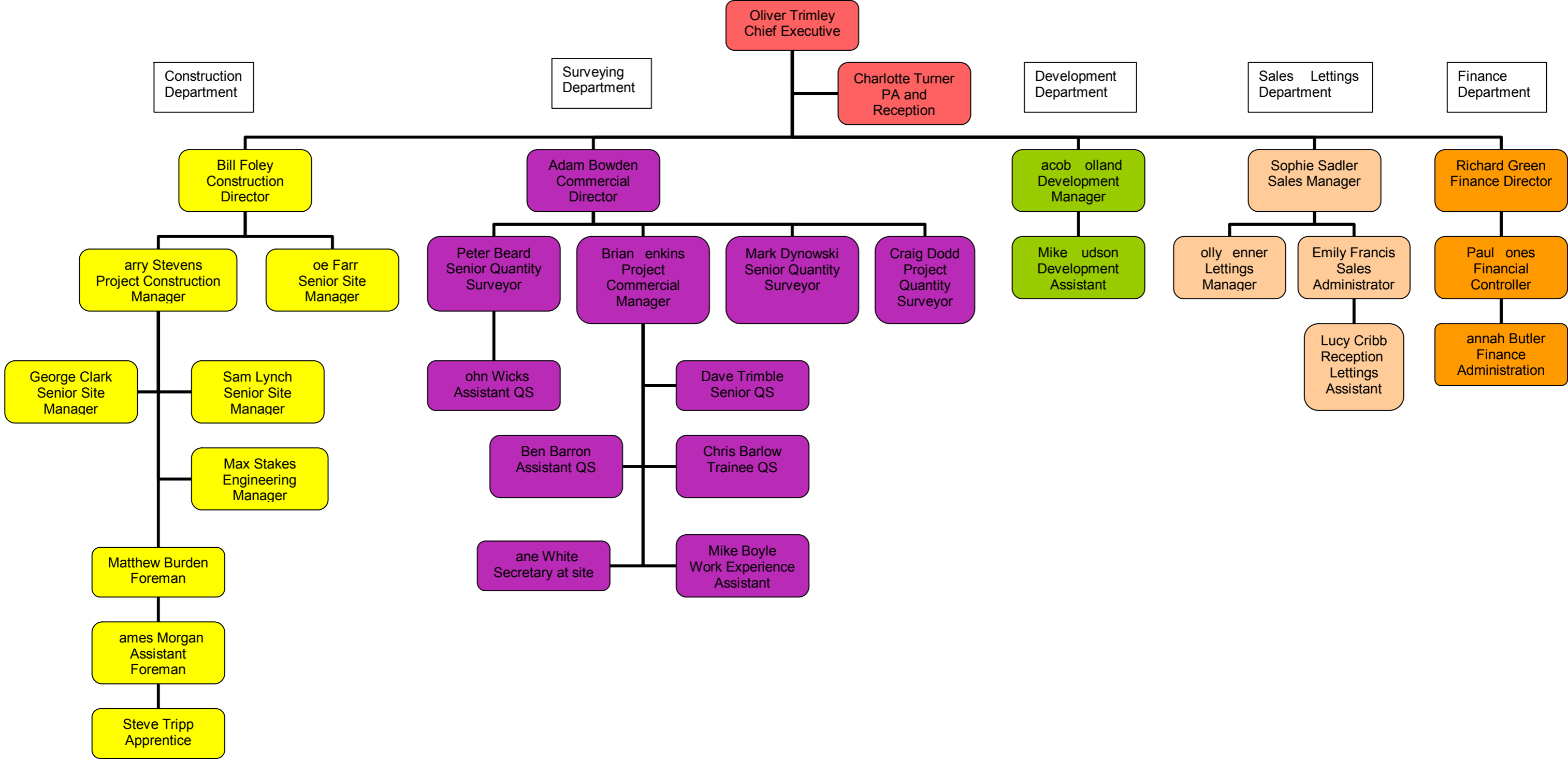
NAME OF EMPLOYEE

CRITERIA	RATING					Weight	Scores
	1	2	3	4	5		
<u>Quality of Work</u> Assessment of consistency of quality of work and ability to do the job.	Poor	Below Average	Average	Good	Excellent	5	
<u>Attendance</u> Assessment of sickness or unauthorised absence over last 12 months	Absent more than 20 days within the last 12 months.	Absent 11-20 days within the last 12 months.	Absent 3-10 days within the last 12 months.	Absence less than 3 days within the last 12 months.	No time lost during the last 12 months	5	
<u>Discipline</u> Disciplinary action taken within last 12 months, (excluding warnings for attendance).	Final written warning or discipline in lieu of dismissal issued.	Written warning issued.	Formal verbal warning issued.	Caution issued.	No disciplinary action taken.	5	
<u>Skills and experience</u>	Poor	Below Average	Average	Good	Excellent	5	
<u>Length of Service</u>	Up to 1 year	Between 1 and 5 years	Between 5 and 10 years	Between 10 and 15 years	More than 15 years	5	

Cavallier Construction Staff List

Christian Name	Surname	Sex	Building industry qualified	Insured Salary (At Oct 07)	Car Allowance	Max Bonus	D.O.B.	Start Date	Occupation	Dept
Oliver	Trimley	Male	Director	150,000.00	14,000.00	-	30/04/1962	01/07/2004	Chief Executive	Admin
Charlotte	Turner	Female	Non Qual	16,500.00	-	1,650.00	06/08/1982	27/06/2005	Reception	Admin
Bill	Foley	Male	Director	80,000.00	10,000.00	40,000.00	20/03/1961	04/01/2005	Construction Director	Construction
Harry	Stevens	Male	Non Qual	54,000.00	8,000.00	13,500.00	08/12/1967	04/01/2005	Senior Project Manager	Construction
Joe	Farr	Male	Non Qual	46,000.00	6,000.00	4,600.00	03/02/1958	04/04/2005	Senior Site Manager	Construction
George	Clark	Male	Qual	46,000.00	6,000.00	4,600.00	24/07/1969	02/05/2007	Project manager	Construction
Sam	Lynch	Male	Non Qual	46,000.00	6,000.00	4,600.00	14/05/1953	01/04/2005	Senior Site Manager	Construction
Max	Stakes	Male	Qual	38,500.00	6,000.00	3,850.00	19/12/1977	02/10/2006	Engineering Manager	Construction
Matthew	Burden	Male	Non Qual	33,150.00	3,500.00	3,315.00	29/05/1966	17/01/2005	Site Foreman	Construction
James	Morgan	Male	Non Qual	30,940.00	-	3,094.00	09/05/1970	18/07/2005	Site Foreman	Construction
Steve	Tripp	Male	Non Qual	6,240.00	-	624.00	06/03/1990	06/08/2007	Apprentice Joiner	Construction
Adam	Bowden	Male	Director	72,500.00	10,000.00	36,250.00	18/04/1974	01/11/2004	Commercial Director	Surveying
Peter	Beard	Male	Qual	45,000.00	6,000.00	4,500.00	15/04/1974	22/08/2005	Senior Quantity Surveyor	Surveying
John	Wicks	Male	Non Qual	25,000.00	4,000.00	2,500.00	08/12/1982	19/03/2007	Assistant Quantity Surveyor	Surveying
Brian	Jenkins	Male	Qual	50,000.00	8,000.00	12,500.00	28/05/1967	06/12/2004	Senior Quantity Surveyor	Surveying
Dave	Trimble	Male	Qual	46,500.00	6,000.00	4,650.00	19/05/1974	04/01/2007	Senior Quantity Surveyor	Surveying
Ben	Barron	Male	Qual	36,000.00	4,000.00	3,600.00	30/05/1977	03/05/2005	Quantity Surveyor	Surveying
Christopher	Barlow	Male	Non Qual	17,500.00	2,000.00	1,750.00	29/05/1988	06/06/2007	Trainee Quantity Surveyor	Surveying
Jane	White	Female	Non Qual	20,500.00	-	2,050.00	31/03/1983	01/05/2007	Reception	Surveying
Mike	Boyle	Male	Non Qual	4,160.00	-	-	22/12/1989	27/02/2008	Site Work Experience	Surveying
Mark	Dynowski	Male	Qual	45,000.00	6,000.00	4,500.00	20/11/1975	07/03/2005	Senior Quantity Surveyor	Surveying
Craig	Dodd	Male	Qual	43,500.00	6,000.00	4,350.00	17/04/1956	02/07/2007	Senior Quantity Surveyor	Surveying
Jacob	Holland	Male	Qual	51,000.00	10,000.00	25,500.00	28/02/1970	17/10/2005	Development Manager	Development
Mike	Hudson	Male	Non Qual	24,000.00	4,000.00	2,400.00	08/11/1984	03/09/2007	Assistant Development Surveyor	Development
Sophie	Sadler	Female	Non Qual	38,000.00	4,800.00	9,500.00	19/07/1973	08/08/2006	Sales Manager	Sales & Lettings
Holly	Jenner	Female	Non Qual	28,500.00	-	-	01/12/1973	14/04/2008	Lettings Manager	Sales & Lettings
Emily	Francis	Female	Non Qual	20,000.00	-	2,000.00	06/06/1979	04/04/2005	Sales Administrator	Sales & Lettings
Lucy	Cribb	Female	Non Qual	15,500.00	-	1,550.00	30/11/1983	19/02/2008	Reception / Lettings Assistant	Sales & Lettings
Richard	Green	Male	Non Qual	90,000.00	10,000.00	unknown	17/02/1966	02/06/2008	Finance Director	Finance
Paul	Jones	Male	Non Qual	52,500.00	10,000.00	26,250.00	14/06/1978	12/12/2006	Financial Controller	Finance
Hannah	Butler	Female	Non Qual	24,000.00	-	2,400.00	29/07/1970	12/03/2008	Finance Assistant	Finance

Cavalier Construction Organisation Chart



Case Study 2

Changing terms and conditions

The Company in this case study is the same as for Case Study 1.

The Company has considered that an alternative to redundancies would be to move everyone onto a four day week.

By making this change the Company considers that they will be able to make sufficient savings to help them survive the current economic climate without having to make any staff cuts.

All 31 staff (this includes the Chief Executive and directors) would be affected by this change.

The Company have checked their employment contracts and these do not contain any lay off or short-time working provisions.

However, the contracts do contain the following clause:

“The Company reserves the right to make changes to any of your terms and conditions of employment and you will receive one month’s notice of any significant changes.”

The Company does not have any collective agreement or Trade Union recognition.

The Company does not have any elected staff representatives.

Questions

1. What are the Company’s options for introducing this change?
2. What factors should the Company take into account in making its decision?
3. Which option would you advise the Company to take?
4. How would you start the process of introducing this change?
5. After the initial consultations it is clear that 5 employees are not going to accept the change. What should the Company do about the 5 refusing employees and what process should they follow? What staff details would you be interested in checking?
6. How would your answer differ if 23 employees were strongly objecting to the change?
7. With the exception of the 5 employees who are objecting, all of the other staff are willing to accept the change after the initial consultation – what do you think the Company should do next?

Changing terms and conditions

8. How, if at all, would your advice to the Company differ in relation to the procedure to introduce the change if they had the following clause in their contracts:

“The Company expressly reserves the right to reduce your hours of work (your total hours and/or the hours you work each day) and pay, subject to providing you with not less than one month’s notice of such change.

Your signature on this contract constitutes your express agreement to the Company reducing your pay and making the appropriate deductions from your normal wage in accordance with this clause.”