

## Redundancy process update

Redeployment during the redundancy process has been a challenge for employers. The Employment Court has just (April 2023) provided more clarity in the case of *New Zealand Steel Ltd v Haddad* [2023] NZEmpC 57. A five-paragraph summary of the decision by [Employment.govt.nz](https://www.employment.govt.nz) is available [here](#) and the judgement itself [here](#).

One paragraph from the summary and two from the judgement itself are relevant for this article -  
“The Employment Court found that employers did not have an absolute duty to redeploy employees when restructuring. In this case, however, the consultation with the employee was flawed and failed to meet the good faith requirements in section 4 of the Employment Relations Act 2000. The employer had predetermined the outcome of the employee’s role being disestablished.”  
*(Employment.govt.nz’s summary. Paragraph references removed for easy reading).*

“[84] The proper approach for employers when considering redeployment is that, when considering whether to dismiss an employee after their position has been made redundant, an employer must consider whether to redeploy the employee. When considering redeployment, the employer must comply with the good faith obligations in s 4 and, in particular, must consult with the employee in accordance with s 4(1A)(c). Finally, when deciding whether to redeploy the employee, the employer must be active and constructive in maintaining the employment relationship in accordance with s 4(1A)(b) including being responsive and communicative.

[85] For completeness, I observe that these obligations arise during the redundancy process. As was held in *Gafiatullina v Propellerhead Ltd*: “An employer’s assessment of suitability for redeployment is not to be conducted unilaterally outside of the restructure consultation.” Therefore, where these redeployment obligations are breached, the fairness of the entire redundancy process will be affected.”  
*(Employment Court judgement).*

So, redeployment is part and parcel of the redundancy process and must be considered from the start of the restructure plan that could lead to redundancy. We suggest you take professional advice at the planning stage.

**This article is brought to you by AdviceWise People, who provide WGANZ’s free employment helpline 0800 692 384. If you have any questions or would like to discuss the article, please call Philip or Anthony.**