



Your legal rights when facing redundancy

By Geoffrey E. Odongo



Redundancy is the loss of employment on the initiative of the employer through no fault of an employee. Usually it is on account of the services of the employee being superfluous to the requirements

The rights of an employee whose employment is terminated on account of redundancy are as follows:

- 1** The right to be engaged in consultation prior to the declaration of redundancy. Such consultation enables the parties to discuss and negotiate a way out of the intended redundancy, if it is possible, or the best way of implementing it if it is unavoidable.
- 2** The employer should give written notice of the redundancy at least one month (30 days) before the commencement of the intended redundancy. The notice has to state the reasons, the extent of the redundancy and the dates at which the services of the employee(s) will be terminated on the account of redundancy.
- 3** The right to trade union representation with regard to the redundancy where the employee is a member of a trade union.

4 The right to challenge the reasons given by the employer to the employee and employer has the burden of proving that the redundancy was indeed necessitated by genuine reasons.

5 Employees have a right to be chosen through a fair process when being terminated on account of redundancy. The employer needs to consider factors such as seniority in time of employees; skill, ability and reliability of the various classes of employees affected by the redundancy.

6 The employee declared redundant is entitled to a minimum of one month's salary, pay for the pending leave days in cash and a severance pay of not less than 15 days' pay for each year of completed year of service.

Where the employer has failed to follow all the procedures as described above prior to the termination on account of redundancy the employee has a claim against their employer for unlawful termination.