

Gordons Partnership

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Redeployment or redundancy: What's on the cards for pharmacists in 22 Boots stores?

In November 2021, Boots announced that it was planning to cease the provision of pharmacy services in 22 of its stores. While the locations of the affected branches have not been revealed, it is understood that the 22 instore pharmacies have now closed.

The closures will have drastically affected pharmacists who worked in those locations. Boots, as an employer, stated that those working at the locations in question were to be offered alternatives to redundancy "wherever possible" – potentially redeploying them to other branches – but this may not have been workable in practice depending on the whereabouts of the pharmacies in question and the make-up of the staff working there.

Boots hasn't yet ruled out further closures, following its 2019 announcement to shut around 200 loss-making branches and in fact, the multiple has just confirmed it is reducing the opening hours of certain pharmacies.

It is inevitable that some redundancy situations will arise out of pharmacy closures, and it is important for employees to understand their rights and the process before engaging with their employer as part of the process.

What is the redundancy process?

Redundancy arises where the dismissal of an employee is wholly or mainly attributable to the employer; (i) ceasing to carry on the business for which the employee was employed, (ii) closes business at the location where the employee was employed, or (iii) has a reduced requirement for employees.

In the case of the 22 instore pharmacy closures, Boots would have cited point (ii) above, insofar as the current role the employees carried out would have ceased to exist following the closure of the pharmacy department, as a legitimate reason for subsequent dismissals.

Notwithstanding that it is accepted that redundancy is a valid reason for a related dismissal, Boots would still have been required to follow a fair procedure when consulting with affected employees.

For Boots, this would initially have required management staff to individually consult all affected employees whose place of work was one of the instore pharmacies due for closure. Whether Boots would have needed to cast

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it's net wider than just the employees who worked solely at the sites due for closure would have depended on several factors, including working practices and the "place of work" provisions in their contracts of employment. If employees were assigned specifically to one retail outlet, the selection process would have been relatively simple.

However, if employees were required to work across sites, or had a mobility clause in their contract, Boots may have needed to consider whether to bring pharmacists from other sites into the redundancy selection pool.

Options at consultation

During this consultation, Boots would have been required to explore avenues to avoid redundancy with all staff. The consultation would have afforded Boots and the employees to explore alternatives, although this does not mean that they had to be accepted. Given the specific professional qualifications required of a pharmacist, the range of reasonable alternatives would be relatively narrow. For instance, it would not be reasonable to expect a qualified pharmacist to accept an alternative role as a checkout operator.

Options at consultation may include voluntary redundancy (which may include inviting employees from other sites to put themselves forward, thereby freeing up alternative positions for those working at the sites due for closure), early retirement or, more commonly, a different job within the organisation.

If Boots did not consider alternative roles with employees by way of a consultation, the dismissal could be rendered unfair.

Whether an alternative job is available and suitable will be determined on objective factors such as the employee's skills, experience, and circumstances, compared with the salary, status, hours, and location of the new role.

The alternative does not have to mirror the previous job and Boots would have had to provide written particulars of each new role so that they could be objectively compared to the employee's redundant position.

To decide whether the new jobs are suitable, the employee should be afforded a four-week trial period at each alternative role offered.

Employees should be aware that if the alternative roles are rejected, then the employee will need to cite reasons for such rejection. These reasons can be subjective such as extra travel time impacting on childcare or the work environment not being suitable.

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Redundancy is often a tense and stressful time for employees, especially in the scenario here, where all employees working exclusively at a pharmacy planning for closure would be involved in a period of consultation with management at Boots.

While it appears Boots' approach was, and rightly so, to redeploy staff across other aspects of the business, this does not force employees to accept other available roles face becoming ineligible for redundancy. If Boots did not consider alternative roles with employees by way of a consultation, the dismissal could be rendered unfair.

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