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Collective Consultation During Redundancy

Collective consultation is one of the most heavily regulated areas of UK employment law. **Where an employer proposes to dismiss 20 or more employees as redundant within a 90-day period at one establishment, the law imposes strict procedural obligations**. These obligations arise under section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA) and operate alongside the ordinary principles of fairness under the Employment Rights Act 1996 and wider UK employment Law duties.

Failure to comply can be expensive.

Collective consultation is a statutory safeguard designed to ensure that large-scale redundancies are subject to structured and meaningful engagement. **Where 20 or more dismissals are proposed within 90 days at one establishment, the duty under section 188 TULRCA arises automatically**. It requires consultation with appropriate representatives in good time, at least 30 or 45 days before the first dismissal takes effect, depending on the scale. Employers must approach collective consultation as a substantive process, not as a procedural formality. The obligation includes timely HR1 notification, provision of prescribed written information and genuine engagement with proposals aimed at avoiding, reducing or mitigating dismissals. Voluntary redundancies and some fixed-term non-renewals may count towards the statutory threshold. Miscalculating numbers or misidentifying the relevant establishment can result in retrospective liability. **Failure to comply can lead to protective awards of up to 90 days' gross pay per affected employee**, as well as exposure to unfair dismissal claims and potential criminal sanctions for breaches of notification. Given the financial and reputational risk involved, early threshold assessment and careful planning are critical. For employers managing restructures, business closures or workforce reductions, collective consultation should be considered at the outset of strategic decision-making. A disciplined, transparent and well-documented approach significantly reduces legal exposure and strengthens the defensibility of redundancy decisions.

Employment tribunals have the power to make protective awards of up to 90 days' gross pay per affected employee. There is also potential criminal liability for failing to notify the Secretary of State using Form HR1. In large-scale restructuring exercises, errors in collective consultation frequently become the central issue in tribunal litigation.

Collective consultation is not simply an enhanced version of individual consultation. It is a statutory regime triggered by scale. **Once the legal threshold is met, the employer must consult with appropriate representatives with a view to reaching an agreement to avoid dismissals, reduce the number of employees involved, and mitigate the consequences**. The duty is engaged when redundancies are genuinely contemplated as a proposal, not when they are merely speculative.

What this article is about: This guide provides a compliance-first explanation of collective consultation for UK employers. It sets out when the duty arises, how to calculate the 20-employee threshold, what constitutes an establishment, the minimum time limits, the procedural steps required and the legal risks of getting it wrong. It also explains how collective consultation interacts with individual redundancy consultation and broader unfair dismissal principles.

If you are managing a restructure, workforce reduction or business closure, understanding the collective consultation framework at the outset is critical. The threshold question of whether the statutory duty applies should be resolved before decisions are finalised or announcements made, and before any dismissal notices are issued.

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Section A: What Is Collective Consultation?

Collective consultation is a statutory consultation process that applies where an employer proposes large-scale redundancies. It is not optional, and it does not depend on contractual terms or internal policy. The obligation arises automatically when the statutory trigger in section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 is met. Employers running a redundancy exercise should treat this as a threshold compliance issue that can determine both the timetable and legal exposure.

The duty requires employers to consult appropriate employee representatives in good time and with a view to reaching an agreement. It is designed to ensure that large-scale workforce reductions are not imposed unilaterally but are instead subject to structured engagement about the reasons for the proposals and possible alternatives.

1. Legal Definition Under TULRCA 1992

Under section 188 TULRCA, collective consultation is required where an employer proposes to dismiss 20 or more employees as redundant at one establishment within a period of 90 days or less.
Several elements of that definition are important:

- The duty is triggered by a proposal to dismiss, not by a final decision.
- "Dismissal as redundant" includes dismissals for a reason not related to the individual concerned, including business closures, workplace closures or reduced need for employees to carry out work of a particular kind.
- Non-renewal of a fixed-term contract is treated as a dismissal and can count for collective consultation purposes. There is a narrow statutory exemption for certain fixed-term contracts of three months or less that expire and are not renewed where the individual was told at the outset the engagement would end, but this is technical and should be applied cautiously.
- Voluntary redundancies count towards the threshold if they form part of the employer's redundancy proposal.

The duty is owed to "appropriate representatives". Where a recognised trade union exists for the affected employees, consultation must take place with that union. Where there is no recognised union, the employer must arrange for the election of employee representatives specifically for the purpose of collective consultation, unless suitable existing representatives are already in place.
The consultation must be undertaken with a view to reaching an agreement. This does not mean the employer must secure agreement. It does mean that consultation must be genuine, meaningful and conducted at a formative stage when proposals can still be influenced.

2. Collective vs Individual Consultation

Collective consultation does not replace individual redundancy consultation. The two are distinct legal obligations serving different purposes.

Collective consultation focuses on the broader redundancy proposal. It addresses issues such as:

- the reasons for the proposed dismissals
- the numbers and descriptions of employees affected
- the proposed method of selection
- ways of avoiding dismissals
- ways of reducing the numbers involved
- ways of mitigating the consequences of dismissals.

Individual consultation, by contrast, concerns the fairness of dismissal for each affected employee. It allows employees to challenge their selection, propose alternatives and raise personal circumstances that may affect the outcome. For practical guidance on one-to-one consultation sequencing and fairness.
Where collective consultation is required, employers must still consult individually with employees before issuing notice of dismissal. The two processes may overlap in practice, provided collective consultation begins in good time and the statutory minimum periods are respected.

Employers sometimes assume that compliance with collective consultation will automatically render dismissals fair. That is incorrect. Even where the section 188 duty is satisfied, dismissals may still be unfair if selection criteria are flawed, consultation is superficial or alternative employment is not properly considered.

Employers should also be aware of the limited "special circumstances" defence under section 188(7) TULRCA. This applies only where it was not reasonably practicable to comply fully with the consultation duty, and the employer must still take all reasonably practicable steps. Tribunals interpret this defence narrowly, and it should not be treated as a planning tool.

Section Summary:

Collective consultation is a statutory obligation triggered by scale. It arises when 20 or more redundancies are proposed within 90 days at a single establishment. It requires meaningful engagement with trade unions or elected employee representatives and operates alongside, not instead of, individual redundancy consultation. Employers must understand the trigger and scope of the duty before progressing redundancy proposals.

Section B: When Is Collective Consultation Required?

The most common compliance failure in redundancy exercises is misjudging whether the collective consultation threshold has been triggered. Employers often focus on headcount reductions in isolation without properly analysing the statutory test. The duty arises not because redundancies are large in a general sense, but because the specific legal criteria under section 188 TULRCA are met. For a wider context on consultation obligations and sequencing, see redundancy consultation.

There are three core elements that must be assessed:
- Are 20 or more dismissals proposed?
- Will those dismissals occur within a 90-day period?
- Are they at one establishment?

Each element requires careful analysis.

1. The 20 Employees Within 90 Days Rule

The statutory trigger applies where an employer proposes to dismiss 20 or more employees as redundant at a single establishment within 90 days or less.

Key points of interpretation include:
- The 90-day period is a rolling window. It is not confined to calendar months.
- The duty is triggered by a proposal to dismiss, not by actual dismissal.
- The threshold relates to proposed dismissals, not simply to headcount reductions.

When counting employees, employers must include:
- Employees dismissed compulsorily for redundancy.
- Employees who volunteer for redundancy as part of the same proposal.
- Employees whose fixed-term contracts are not renewed, where the reason is redundancy rather than simple expiry, are subject to any narrow statutory exemption.
- Employees for whom dismissal is being proposed, even where the employer is simultaneously exploring redeployment options, because the duty turns on the proposal stage. Where redeployment removes the redundancy proposal entirely at an early stage, those individuals may fall outside the count, but employers should take care when relying on this distinction in live planning.

Voluntary redundancies are frequently misunderstood. If an employer announces a proposal affecting 25 roles and seeks volunteers, those volunteers count towards the 20-employee threshold. The statutory obligation is not avoided simply because employees opt in.

Employers should also avoid artificially separating redundancy exercises to fall below 20 dismissals. Tribunals will examine the substance of the employer's plans. Where dismissals form part of the same proposal within a 90-day period, the threshold analysis may be met regardless of how the exercise is described internally.

2. What Is a "Single Establishment"?

The term "establishment" is central to the threshold test and often misunderstood.
An establishment is not automatically the entire company. Nor is it necessarily a separate legal entity. Case law establishes that an establishment is the local employment unit to which workers are assigned to carry out their duties.

In practical terms, this may be:
- a single store within a retail chain
- a specific warehouse or distribution centre
- a defined operational site within a larger organisation.

Following appellate decisions in large retail redundancy cases, the focus is on the workplace to which employees are assigned, rather than on the employer as a whole. Large employers with multiple sites must therefore assess redundancy numbers separately at each site.

However, employers should not assume that every location will automatically constitute a separate establishment. The factual matrix matters. Centralised management, shared workforce pools or integrated operations can complicate the analysis.

Misidentifying the establishment is a common source of collective consultation claims.

3. Fixed-Term Contracts and Collective Consultation

The non-renewal of a fixed-term contract can amount to a dismissal for redundancy purposes and may therefore count towards the 20-employee threshold.

Employers sometimes exclude fixed term expires on the assumption that they fall outside redundancy law. That assumption is unsafe. If the reason for non-renewal is a reduced need for employees to carry out work of a particular kind, the dismissal may fall within the statutory framework. For practical drafting and risk issues in this area.
There are limited technical exemptions under TULRCA, but these are narrowly interpreted. As a matter of risk

management, employers should include fixed-term non-renewals in their threshold calculations unless clearly satisfied that an exemption applies.
Failure to count fixed-term dismissals correctly can lead to retrospective findings that collective consultation should have taken place.

Section Summary:

Collective consultation is required where 20 or more dismissals are proposed within 90 days at one establishment. Voluntary redundancies and some fixed-term non-renewals count towards the total. Establishment is a factual question focused on the local employment unit. Employers must conduct a careful threshold analysis before progressing redundancy plans, as miscalculation is a frequent source of tribunal liability.

Section C: Time Limits and Legal Deadlines

Once the collective consultation threshold is triggered, the next critical issue is timing. The statutory regime imposes minimum consultation periods and advance notification requirements. These deadlines are not advisory. Failure to comply can lead to protective awards and, in the case of notification failures, potential criminal liability.

The purpose of the time limits is to ensure that consultation takes place at a meaningful stage and that employee representatives have a genuine opportunity to influence the outcome before dismissals take effect. For a broader overview of collective consultation duties and timing.

1. The 30-Day Minimum Period (20–99 Dismissals)

Where an employer proposes to dismiss between 20 and 99 employees at a single establishment within a 90-day period, consultation must begin in good time, at least 30 days before the first dismissal takes effect.

The 30-day period is a minimum. It does not mean consultation can simply last 30 days as a matter of formality. If the proposals are complex or if meaningful engagement requires more time, consultation may need to extend beyond that period.

The key statutory requirement is that consultation must start in good time. Beginning consultation after decisions have effectively been finalised risks a finding that the process was not genuine, even if the 30-day minimum was technically observed.

2. The 45-Day Minimum Period (100 or More Dismissals)

Where 100 or more dismissals are proposed within 90 days at one establishment, the minimum consultation period increases to 45 days before the first dismissal takes effect.

Large-scale redundancies typically involve more complex operational, financial and human considerations. Tribunals scrutinise these exercises closely. Employers should ensure that consultation documentation, communications and meeting records demonstrate that proposals remained open to discussion during the consultation period.

As with the 30-day rule, 45 days is the statutory floor, not the ceiling.

3. When Does the Consultation Clock Start?

The minimum period runs backwards from the date on which the first dismissal takes effect, not from the date consultation begins and not from the date notice is issued.

This distinction is important. If an employee is given 12 weeks' notice of dismissal, the consultation period must still begin at least 30 or 45 days before the effective date of termination. Issuing notice early does not shorten the statutory consultation period. Employers must therefore plan backwards from proposed termination dates to ensure compliance.

The duty to notify the Secretary of State using Form HR1 is aligned with these minimum periods. Notification must be submitted at least 30 days before the first dismissal where 20–99 redundancies are proposed, and at least 45 days before the first dismissal where 100 or more are proposed. For practical guidance on completing and submitting the notification.
The obligation to notify is separate from the duty to consult. The offence arises if notification is late relative to dismissal dates, not consultation dates. Employers should also ensure that HR1 is submitted in time, where notice could otherwise expire within the protected period.

Failure to submit HR1 within the required timeframe is a criminal offence and can result in an unlimited fine.

Employers should also ensure that notice of dismissal is not issued until consultation has concluded in substance. While consultation and individual processes may overlap, final dismissal decisions must not be predetermined.

Section Summary:

Collective consultation must begin in good time and at least 30 or 45 days before the first dismissal takes effect, depending on scale. The statutory minimum periods are calculated by reference to termination dates, not notice dates. HR1 notification must meet the same advance timeframes. Careful planning is essential to avoid procedural breach and associated liability.

Section D: The Collective Consultation Process Step-by-Step

Once the duty to collectively consult is triggered and the timing framework is clear, employers must implement a structured process. Collective consultation is not satisfied by a single meeting or by circulating written proposals. It is a staged statutory procedure requiring advance notification, engagement of a representative, and the provision of prescribed information.

A well-managed process will demonstrate that consultation was genuine, informed and conducted at a formative stage. A poorly managed one often becomes the central issue in tribunal proceedings, particularly in complex restructuring and roles changes .

1. Filing Form HR1 (Notification to the Secretary of State)

Before the first dismissal takes effect, the employer must notify the Secretary of State of the proposed redundancies by submitting Form HR1. For guidance on completing and submitting the notification.

The notification must be given:

- at least 30 days before the first dismissal where 20 to 99 redundancies are proposed
- at least 45 days before the first dismissal where 100 or more redundancies are proposed.

The obligation to notify is separate from consultation with employee representatives. However, in practice, employers commonly submit Form HR1 when collective consultation begins.

Where an employer proposes redundancies at more than one establishment, the assessment must be made per establishment. If 20 or more dismissals are proposed at a particular establishment, HR1 must be submitted for that site.

Failure to submit HR1 within the statutory timeframe is a criminal offence. The employer may face an unlimited fine. Directors and officers may also face personal liability where the offence is committed with their consent or connivance.

A copy of the HR1 notification must be provided to the appropriate employee representatives.

2. Identifying and Electing Appropriate Representatives

The duty to consult is owed to "appropriate representatives".

Where a recognised trade union exists for the affected employees, consultation must take place with that union. Employers cannot bypass a recognised union by seeking to consult directly with employees.

Where no recognised trade union exists, the employer must arrange for the election of employee representatives. Elections must be fair and allow affected employees to stand and vote. The number of representatives should be sufficient to effectively represent the interests of the affected group.

Employers may rely on existing employee representatives if their remit covers collective redundancy consultation and they were properly elected. If not, fresh elections will be required.

Only in limited circumstances, such as where employees fail to elect representatives after being given a genuine opportunity, may an employer consult directly with affected employees.

Failure to consult the correct representatives is itself a breach of the statutory duty.

3. Providing the Required Statutory Information

Section 188 requires the employer to provide specified information in writing to the appropriate representatives. This information must be sufficient to enable meaningful consultation.

The written information must include:

- the reasons for the proposed dismissals
- the numbers and descriptions of employees whom it is proposed to dismiss
- the total number of employees of those descriptions employed at the establishment
- the proposed method of selecting employees for dismissal
- the proposed method of carrying out the dismissals, including the proposed timeframe
- the proposed method of calculating any redundancy payments beyond statutory minimum entitlements
- the number of agency workers engaged the parts of the undertaking in which they are working and the type of work they are carrying out.

Providing incomplete or late information undermines the consultation process and may increase the likelihood of a protective award.

Employers should ensure that selection criteria are sufficiently detailed and that financial or business rationales are clearly explained. Vague or formulaic explanations are often criticised by tribunals. For practical guidance on compliant approaches, see redundancy selection criteria.

4. Conducting Meaningful Consultation

Collective consultation must be undertaken with a view to reaching an agreement. This requires more than informing representatives of a finalised decision.

The consultation must address:

- ways of avoiding dismissals
- ways of reducing the numbers to be dismissed
- ways of mitigating the consequences of dismissals.

In practice, this may include discussions about redeployment, retraining, natural attrition, voluntary redundancy schemes, reduced hours, job sharing or revised selection criteria. Employers should be prepared to consider and respond to proposals aimed at avoiding or reducing dismissals, including measures that may support avoiding redundancy in whole or in part.

Employers may identify provisional selection pools and criteria before consultation begins. However, final decisions must not be predetermined. Representatives must have a genuine opportunity to influence the outcome.

Tribunals examine whether consultation was undertaken at a formative stage. If dismissal decisions were effectively fixed before consultation commenced, compliance with minimum time periods will not cure the defect.

Throughout the process, employers should keep detailed records of meetings, proposals considered and responses provided. Documentation often becomes decisive evidence in tribunal proceedings.

Section Summary:

The collective consultation process requires timely HR1 notification, consultation with appropriate representatives, provision of detailed statutory information and genuine engagement with proposals aimed at avoiding or mitigating dismissals. Employers must demonstrate that consultation was meaningful and undertaken at a stage when change was still possible. Procedural discipline and accurate record-keeping are critical to reducing liability risk.

Section E: What Happens If You Get Collective Consultation Wrong?

Collective consultation failures are among the most financially significant procedural breaches in UK employment law. Where the statutory duty under section 188 TULRCA is not complied with, affected employees may bring claims in the employment tribunal seeking a protective award. In addition, procedural failings can increase exposure to unfair dismissal claims and, in certain cases, criminal liability.

Tribunals approach collective consultation breaches seriously, particularly where consultation was superficial, delayed or avoided altogether. Employers facing claims should take early advice on process and evidence, including how tribunal proceedings operate in practice.

1. Protective Awards – Up to 180 Days' Gross Pay

If an employer fails to comply with the collective consultation duty, an employment tribunal may make a protective award in respect of each affected employee.

A protective award can be for up to 180 days' gross pay per employee. It is not subject to the statutory weekly pay cap that applies to statutory redundancy pay or the basic award in unfair dismissal claims. Technically, the tribunal sets a "protected period" and affected employees are entitled to remuneration for that period, with the length reflecting the seriousness of the employer's default.

The purpose of the protective award is punitive and protective rather than compensatory. Tribunals assess the seriousness of the employer's default. Where there has been a complete failure to consult, the maximum award is commonly imposed. Where there has been partial compliance, the award may be reduced.

The award applies to all employees who were affected by the redundancy proposal, not only those who bring claims.

Given the scale of potential liability, protective awards in large redundancy exercises can run into substantial sums.

2. Unfair Dismissal Risk

Collective consultation compliance does not automatically render dismissals fair. Conversely, failure to comply does not automatically render dismissals unfair. The two regimes are legally distinct.
However, where collective consultation has been inadequate, tribunals may also find that individual dismissals were procedurally unfair, particularly where:

- consultation was not meaningful
- selection criteria were flawed or applied inconsistently
- alternative employment was not properly considered.

Employees with the requisite qualifying service, usually two years, may pursue unfair dismissal claims alongside protective award claims. Compensation for unfair dismissal is assessed separately.
Employers must therefore treat collective and individual consultation as complementary components of a fair redundancy process.

3. Criminal Liability for Failure to Notify (HR1)

Failure to notify the Secretary of State using Form HR1 within the required timeframe is a criminal offence.

The offence is committed by the employer and may result in an unlimited fine. In certain circumstances, directors, managers or other officers may be personally liable where the offence was committed with their consent, connivance or attributable to their neglect.

Although prosecutions are less common than tribunal claims, the risk is real and should not be overlooked in large-scale restructures.

4. Artificially Staggering Redundancies

Employers sometimes attempt to structure redundancies in smaller groups to remain below the 20-employee threshold. Tribunals will scrutinise whether dismissals are genuinely separate exercises or form part of the same overall proposal.
Where dismissals form part of the same proposal within a 90-day window, the statutory duty may be treated as triggered regardless of how the employer labels the process.

A failure to apply the threshold test correctly can result in retrospective liability for failure to consult collectively.

Section Summary:

Breaching the collective consultation duty can lead to protective awards of up to 180 days' gross pay per affected employee, exposure to unfair dismissal claims and potential criminal liability for HR1 failures. Tribunals focus on whether consultation was genuine, timely and conducted with a view to reaching an agreement. Early legal assessment and procedural discipline are critical in large-scale redundancy exercises.

Section F: Practical Compliance Strategy for Employers

Collective consultation is often treated as a procedural hurdle to be cleared once a business decision has been made. That approach creates risk. The statutory framework requires engagement at a formative stage, not retrospective justification of a concluded plan. Employers who approach collective consultation as part of strategic planning, rather than as a compliance afterthought, are significantly better placed to reduce tribunal exposure.

A structured compliance strategy should address threshold assessment, timing, documentation, and communication, and be aligned with wider planning for restructuring and roles changes

1. Conducting an Early Threshold Assessment

Before any announcement is made, employers should assess whether the collective consultation duty is likely to be triggered.

This requires:

- identifying the proposed number of dismissals
- considering whether voluntary redundancies will form part of the proposal
- mapping the relevant establishments
- reviewing fixed-term contracts that may expire within the relevant 90-day period
- checking whether a redeployment plan genuinely removes redundancy proposals for certain roles or whether dismissal remains proposed pending outcomes.

The threshold analysis should be documented. If the employer later needs to defend its approach, contemporaneous reasoning will carry weight.

Misjudging the 20-employee rule is one of the most common causes of protective awards. Early assessment reduces the risk of inadvertent breach.

2. Planning Backwards from Termination Dates

Because the minimum consultation periods are calculated by reference to the first dismissal taking effect, employers should plan backwards from intended termination dates.

This planning should factor in:

- the 30-day or 45-day statutory minimum period
- time required for representative elections, if necessary
- time required for meaningful engagement and consideration of counterproposals
- individual consultation meetings and any appeal or review processes.

Rushed timetables often undermine the credibility of consultation and increase the likelihood of challenge.

3. Ensuring Meaningful Representative Engagement

Employers should approach consultation meetings as genuine discussions, not as briefings.

Practical steps include:

- providing detailed written information at the outset
- allowing sufficient time for representatives to respond
- considering counterproposals and documenting reasons for acceptance or rejection
- being transparent about financial and operational drivers.

Where financial hardship or restructuring pressures exist, supporting evidence should be prepared. Tribunals are more likely to accept that consultation was meaningful where employers demonstrate openness about the business case.

4. Managing Parallel Individual Consultation

Collective and individual consultation can overlap, provided statutory minimum periods are observed, and dismissal decisions are not predetermined.

Employers should:

- avoid issuing dismissal notices until consultation has concluded in substance
- ensure individual meetings genuinely consider personal circumstances and alternative employment
- Keep clear records, separating collective discussions from individual selection discussions.

Failure at the individual stage can still result in unfair dismissal findings even where collective consultation was compliant.

Section Summary:

Effective collective consultation requires early legal analysis, realistic scheduling and genuine engagement with representatives. Employers should treat threshold assessment, establishment mapping and documentation as core compliance steps. A disciplined and transparent approach reduces the risk of protective awards, unfair dismissal findings and reputational damage.

FAQs

What is collective consultation?
Collective consultation is a statutory process required under section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992, in which an employer proposes to dismiss 20 or more employees as redundant within a 90-day period at a single establishment. It requires consultation with recognised trade unions or elected employee representatives to reach an agreement on avoiding, reducing, or mitigating dismissals.

When is collective consultation required?
It is required when an employer proposes 20 or more redundancies within 90 days at one establishment. The obligation arises at the proposal stage, before final decisions are made.

What is the 20-employee rule within 90 days?
If 20 or more dismissals for redundancy are proposed at a single establishment within any rolling 90-day period, collective consultation must begin in good time and at least 30 days before the first dismissal takes effect. Where 100 or more dismissals are proposed, the minimum period increases to 45 days.

Do voluntary redundancies count towards the threshold?
Yes. Where voluntary redundancies form part of the employer's redundancy proposal, they count towards the 20-employee threshold.

What is an "establishment" in redundancy law?
An establishment is the local employment unit to which employees are assigned to work. It is not automatically the whole company. The assessment is fact-specific and may depend on how the business is structured and managed.

Do fixed-term contract expiries count?
Non-renewal of a fixed-term contract can amount to a dismissal for redundancy purposes and may count towards the threshold. There is a narrow statutory exemption for certain fixed-term contracts of three months or less that expire and are not renewed where the individual was told at the outset the engagement would end, but employers should treat this as technical and apply it cautiously.

Can collective and individual consultation run at the same time?
Yes. The processes may overlap, provided collective consultation begins in good time and statutory minimum periods are respected. Final dismissal decisions must not be predetermined.

What is a protective award?
A protective award is a tribunal award of up to 180 days' gross pay per affected employee where an employer fails to comply with the collective consultation duty. Technically, the tribunal sets a "protected period" and affected employees are entitled to remuneration for that period. It is separate from statutory redundancy pay and unfair dismissal compensation.

What happens if Form HR1 is not submitted?
Failure to notify the Secretary of State using Form HR1 within the required timeframe is a criminal offence and may result in an unlimited fine.

Conclusion
Collective consultation is a statutory safeguard designed to ensure that large-scale redundancies are subject to structured and meaningful engagement. Where 20 or more dismissals are proposed within 90 days at one establishment, the duty under section 188 TULRCA arises automatically. It requires consultation with appropriate representatives in good time and at least 30 or 45 days before the first dismissal takes effect, depending on scale.

Employers must approach collective consultation as a substantive process, not as a procedural formality. The obligation includes timely HR1 notification, provision of prescribed written information and genuine engagement with proposals aimed at avoiding, reducing or mitigating dismissals. Voluntary redundancies and some fixed-term non-renewals may count towards the statutory threshold. Miscalculating numbers or misidentifying the relevant establishment can result in retrospective liability.

Failure to comply can lead to protective awards of up to 180 days' gross pay per affected employee, as well as exposure to unfair dismissal claims and potential criminal sanctions for notification breaches. Given the financial and reputational risk involved, early threshold assessment and careful planning are critical.

For employers managing restructures, business closures or workforce reductions, collective consultation should be considered at the outset of strategic decision-making. A disciplined, transparent and well-documented approach significantly reduces legal exposure and strengthens the defensibility of redundancy decisions.