

FP'S 5 QUESTIONS: EFFECTIVE COMMUNICATION STRATEGIES DURING A REDUCTION IN FORCE

Insights
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You may have recently made the difficult decision to reduce your workforce, and you still have some tough choices ahead regarding how to handle the details. Perhaps the most important decisions will involve how you chose to communicate with employees during the layoff process. By following a few best practices, you can help ensure both laid-off and remaining employees understand the process. Indeed, you'll want to focus on transparency, employee morale, and legal compliance, while also giving displaced workers the resources they need to help during the transition. Read on for a Q&A with [Fisher Phillips Partner Matthew Korn](#), a member the firm's RIF team, which helps navigate employers through this challenging process. Here are Matthew's answers your top five questions on effectively communicating with employees during a layoff.

1. A lot of careful planning goes into layoff decisions. What preliminary steps should employers take before making an announcement to employees?

Matthew: There are many things the leadership team should do before announcing a layoff, and it's important to carve out at least a few weeks to prepare. They may even need 10+ weeks of prep time if the WARN Act or similar state laws are triggered.

We have prepared a Reduction-in-Force Checklist that is part of our [RIF/WARN Toolkit](#), which outlines the many considerations regarding layoffs, but the following six steps are among the most important:

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- 1. Determine the Goals.** The leadership team should determine the goals of the reduction-in-force or restructuring, which may impact the selection criteria and other aspects of the layoff.
- 2. Develop a Process.** The leadership team needs to develop a defensible process for making selections and to train managers on how to use it. It is often a mistake to leave this to the discretion of managers, as this can lead to decisions that appear subjective, unfair, or discriminatory.
- 3. Review for Potential Adverse Impacts.** The leadership team should review the list of affected employees to determine whether there are any potential adverse impacts based on a protected category (such as race, sex, or age).
- 4. Determine Whether WARN Notice is Required.** Once the selections are finalized, the leadership team should determine how many employees will be impacted and the facilities in which they work to determine whether WARN notice may be required under federal or state law. Federal WARN requires 60 days' advance notice of a mass layoff or plant closing, whereas some states, like New York, require up to 90 days' advance notice and/or have additional notice requirements.
- 5. Prepare Separation Agreements.** The leadership team should decide whether separation pay will be offered (or is required by company policy or state or local law) and if so, work with legal counsel to prepare separation agreements.
- 6. Develop Key Communications.** The leadership team should prepare communications to affected employees, potential communications to non-impacted employees, and talking points for managers. Preparing for the layoff announcement, the leadership team should involve the HR department and legal counsel in the planning process, along with the company's communications or public relations teams.

2. What are some best practices for communicating with employees about a reduction in force?

Matthew: It is critical to provide impacted employees with as much information as possible regarding their separation —

including the information required by WARN, if applicable.
This would include:

- The details of any separation pay or benefits;
- Contacts for outplacement services;
- Instructions for applying for unemployment; and
- Any other information available to the company at the time of the announcement.

If the layoffs are expected to be temporary, it is important to note the expected duration of the layoff and provide periodic updates to impacted employees. The company should also consider communicating with non-impacted employees regarding the layoffs, especially if there are key employees who the company wants to retain. In those cases, the company should also consider retention agreements, depending on the circumstances.

Managers need to be trained on what to say to employees regarding the layoffs and should be provided with talking points prepared by the HR department or legal counsel.

3. With so many people working remotely these days, is it acceptable to conduct layoffs through phone calls or Zoom? What about texting?

Matthew: While it has always been a best practice to convey this kind of message in person, with many employees working remotely it may be necessary to inform some employees of their layoff via video conference. This would certainly be preferable to sending an email or a text message.

4. There is some debate on whether layoffs should be conducted on Fridays. Is there a particular day of the week that you recommend?

Matthew: I don't think the day of the week particularly matters. Some employers decide to conduct layoffs on Fridays to give employees the weekend to process the information. But, advising an employee of their layoff earlier in the week gives them time to connect with HR personnel to answer any questions that they may have.

5. What tips do you have for employers to help maintain employee morale during difficult and uncertain times?

Matthew: This is one of the most challenging aspects of conducting a reduction-in-force, especially if it impacts a large number of employees. Companies need to be prepared with messaging to employees who are retained and provide them with an optimistic outlook for the future of the company.

There will undoubtedly be employees who fear future reductions, which may be inevitable. So, it is imperative that the retained employees see that the company has fairly treated those who were laid off, in terms of advance notice, communications, severance, etc. If they think the company handled the layoffs poorly, they will expect the same if they are ever laid off. This may lead to unwanted turnover.

Managers need to be prepared to answer questions about the company's future plans and how they may impact employees. Companies don't want managers saying the wrong thing or overpromising if future plans are uncertain. And, as noted above, if there are concerns regarding retention, the company should consider whether retention agreements or other benefits can be provided to key employees to help mitigate the risk of further departures.

Conclusion

If you're contemplating a RIF or other layoff, your Fisher Phillips attorney is ready to help. You may also reach out to authors of this Insight or any attorney in our [Reductions in Force \(RIFs\) Practice Group](#). We will continue to monitor the latest developments related to this area and provide updates as warranted, so you should ensure you are subscribed to [Fisher Phillips' Insight System](#) to gather the most up-to-date information directly to your inbox.