How to Conduct Reductions in Force (RIFs)

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Introduction

Rightsizing, streamlining, downsizing, or optimizing... whatever you call it, reductions in force (RIFs) are difficult for everyone involved.

While every business would prefer to avoid the trauma of a RIF, unfortunately it’s an inevitable cycle that hits every organization at some point. A critical element when facing the prospect of a RIF is planning and preparing extensively. If you can conduct the transition as respectfully and efficiently as possible, you will be able to minimize the negative effects on your culture, mitigate exposure to claims, and move the organization through this difficult change quickly.

The following is a practical guide for implementing a RIF while balancing business needs, legal requirements, and doing the right thing for everyone impacted.
A RIF has the potential to trigger costly discrimination claims, demoralize the remaining troops ("survivors"), and trigger the departures of your top performers as they may perceive the business to be failing or shrinking rather than growing and thriving. The key to managing these risks is good planning and authentic communication.

To implement a RIF as quickly and humanely as possible, spend some time planning out how you will address all the relevant issues. Here are a few things to consider:

**Are there alternatives to the RIF?**

Many companies choose to implement RIFs without first considering if there’s anything less drastic that could work such as temporary pay cuts, reducing hours, freezing some benefits, implementing a company shut-down for an extended period around the holidays, forcing the use of vacation time, or consolidating offices, etc.

There are many alternatives that should be considered up front. Organizations implement RIFs to preserve cash. So, first consider whether there are other, less drastic ways to preserve cash.

Due to the potential trauma, massive distraction, and disruption they create for an organization, **RIFs should be a last resort** after every other alternative is considered – and there are many to consider.

**What is the selection criteria and is it consistently applied?**

Once you determine a RIF is necessary, the next step is to identify your criteria for employee selection. The stated business goals should be used to clarify the criteria for selecting people.

For example, let’s say a stated business goal involves a change in business strategy that makes some functional departments less strategic or "core" to the business. In that situation, it would make sense to reduce headcount in the affected departments per the stated business goal.
People, both those subject to the layoff as well as the remaining employees, will always question the fairness of the selection criteria, so it’s imperative you have a sound rationale for who is selected.

Developing a consistent approach that is applied across the board will go a long way in reducing the risk of discrimination claims as well as the perception of arbitrary, unfair actions, which can have grave cultural consequences for your workforce.

Employers must use objective, business-related criteria that can be easily explained to the organization and third parties (e.g. employee-side attorneys), such as:

- length of service or seniority
- a specific department or office location
- elimination of specific job functions or levels
- pre-existing job appraisal data and documentation related to successful performance of critical post-reduction functions

Employers should have a documented, objective comparison of employees where skills and job performance are the criteria in making layoff determinations. Create and maintain documentation to support the decisions made in the layoff process. These records will be critical in the event of litigation challenging some aspect of the layoff.

“When I was at PMC-Sierra after the dot.com bust we faced enormous pressure to cut expenses. One measure we took to avoid a layoff was to implement a company-wide shutdown for two weeks around the holidays. In doing this, we required employees to use their vacation time or allowed them to borrow vacation time if they did not have enough in their bank to cover it. This saved us about a $1m a day and the employees loved coming back to the office after two weeks with no work piled up due to everyone being out. It was a very slow time of the year for our business so it worked. Later that year, we did the same thing in the summer around the July 4th holiday. The key was giving our employees as much advance notice of this event as possible.”
Determine size of layoff and duty to WARN

Another key issue is determining the size of the layoff. There’s nothing worse for morale and productivity than a culture of fear and anxiety where employees are more concerned about another round of layoffs than they are about driving the business forward. If you have to do several rounds of staff reductions back to back, employees begin to lose confidence in the company leadership.

NOTE: Sometimes, employers make the mistake of decreasing the size of the layoff to avoid legal notice requirements of the layoff (as explained below). However, organizations likely lose more by experiencing successive rounds of layoffs than experiencing a single layoff. In the short term, it might be more painful, but if the size of the reduction is enough to help the company move forward, the collective acceptance of the action in the company is greater.

Depending on the size of your layoff, you may also have a state and/or federal duty to notify your workforce before you can execute the layoff.

The federal law is the Workers Adjustment Retraining and Notification Act (WARN), which requires employers with 100 or more employees to provide employees, bargaining representatives, and local government officials with 60 days advanced written notice of a mass layoff or a plant (or office) closing.

A plant closing involves shutting down a single location if it results in the layoff of 50 full-time employees. Most states, including California, have their own version of the WARN act and are typically more protective of employee rights than the federal law.

A mass layoff involves a reduction in force of at least 33% of full-time employees and a minimum of 50 employees at a single site.

For example, California’s WARN act covers employers with 75 full or part-time employees and mass layoff means laying off 50 or more employees from a single site within 30 days.

In that situation, the employer must provide 60 days advance written notice to the affected workers, to the Employment Development Department (state administrative agency) AND to the chief elected official of the city or county in which the layoff is going to occur.
Conduct a layoff analysis for disparate impact

Once you’ve established your layoff criteria, decided upon the size of your layoff, and generated a potential list of affected employees, you need to conduct an analysis to determine if it will disproportionately impact a group of legally protected employees. For example: people over age 40, women, African-Americans, Latinos, etc.

An outside statistical consultant, HR expert, or legal counsel can assist in assessing the vulnerability of the layoff to claims of adverse impact. It is very important to have an expert validate your plans. Pay particular attention to the number of affected older employees and/or experienced salaried workers.

One tendency in looking for cost savings is to reduce payroll which often targets high-salaried employees. Be careful that you are not disproportionately including older workers in this because it will inevitably lead to people believing age was a motivating factor.

Further, laying off the more experienced members of a department or team can save money but there may be a high productivity cost.

Severance and release issues

Typically, employers will provide some amount of severance — often based on a formula such as years of service and position/title. If offering a severance, it’s common to request the employee to sign off and release any and all claims against the employer in exchange for severance. As always, check your state and federal laws when deciding what is appropriate for your RIF.

Severance is offered to help employees in large measure to have some financial security while they seek another position. While not mandatory, many organizations have a severance policy so that it can be consistently applied.

Many employers are generally familiar with the provision of releases to employees in the context of individual terminations. But many employers are unaware of the specific, heightened requirements for obtaining a valid release from employees over the age of 40 in the context of a layoff.

These heightened requirements are the result of the Older Workers Benefit Protection Act (OWBPA). In the context of a group termination program such as a layoff, the following requirements must be met:

• employees over 40 must be provided with information about eligibility factors to participate and time limits of the program

• job titles and ages of all employees eligible or selected for the program

• ages of all employees in the same job classification or organizational unit not eligible or selected for the program.
**Don’t forget immigration issues**

For companies that employ foreign nationals, a layoff will raise a host of challenging immigration issues. Non-immigrant workers on the various categories of temporary work visas (H-1B, L, E, and TN) are legally authorized to remain in the US only as long as they are employed with the employer noted in their visa application.

An H-1B is considered to be out-of-status upon termination and normally is expected to depart the United States in a short period of time. An employer that terminates an H-1B employee before the end of the validity period on the approved H-1B petition must pay “the reasonable costs of return transportation” for the foreign national to return abroad.

Because of the greater impact on foreign nationals, you may want to extend the notice period for impacted employees who are on temporary work visas and/or provide a longer period of time for those employees to find another position within or outside the organization. The longer notice period to foreign nationals is justified by the greater impact on those individuals.

**Employers must notify the US Citizenship and Immigration Services of the H-1B foreign national’s termination.**
Conducting the RIF

Many leaders get sloppy when conducting a RIF because they’re focused on the looming organizational problem or on how the impacted employees will react to the news, rather than thinking about the big picture. It’s critical in a RIF to not only think through how you will communicate this to the impacted employees but ALSO to those not impacted as they are staying in your organization and you need them focused, motivated, and moving forward. The stakes are high when doing a RIF and it’s critical to lead well on a personal level and an organizational level, which means conducting the RIF humanely and efficiently.

Invest in helping impacted employees

How you treat employees during a RIF will speak directly to your workplace culture, so be aware of what is at stake. The choices you make during a RIF will leave an impression with employees forever, whether they are departing or staying with your organization.

It’s worth considering investing in helping departing employees transition to another job. After all, that is the whole idea behind a severance; to provide them some financial cushion to bridge them to a new opportunity.

If you do some outreach and retain a quality outplacement firm or contact recruiters from other companies and make them aware you have impacted employees who you would like them to consider, you can help people move on more quickly. This step is mutually beneficial. The sooner the impacted people find new jobs, the faster they will move on with their lives and everyone wins.

Second, ease the transition through a severance package, if possible. Showing the leadership team is humane and respects people goes a long way toward minimizing the negative emotions that are inevitable with a RIF. Severance is often higher for senior talent not because they deserve more due to their seniority, but because senior talent often requires more time to find a job.

If severance isn’t possible, do the work to bridge affected employees to a new role internally or externally. The goal is to help people move forward and minimize negative emotions. These actions will lead to a smoother transition, and will ultimately lead to a more positive experience for employees.
Create an action plan and train to the plan

As you approach the notification date, make sure you have a comprehensive action plan and a crisp-clear time line that addresses equipment, facilities, physical security, IT, and anything else. Train managers and anyone else involved in the RIF.

These are details that have to be proactively managed:

- the timeline of all activities
- who is responsible for each step
- who is the problem solver when a situation goes off track
- a clear communication plan
- any necessary security procedures (see below for a few caveats)

When you actually implement the RIF, here are a few key guidelines:

Balance security with respect for the individual

Although you need to ensure the safety of your IP and secure your premises and property from theft and misuse, you don't want to become fodder for workplace gossip because you had security escort people from the premises.

Remember: People affected by the RIF will continue to have relationships and influence employees in your workforce; show them humanity and respect on their way out.

Kindness and empathy will go a long way toward minimizing the negative gossip that often ensues after a poorly executed RIF. Your employer brand is on the line here.

Define and communicate a clear start and end to the RIF

When experiencing a RIF, there will be gossip and rumors flying around the organization. In order to contain and minimize the turmoil, it's best to clearly identify the start and end point to the RIF. Let people know they are through the worst of it (if that is the case) and it's time to start rebuilding the team.
Be humane and respectful during a tough business cycle

It’s easy to be nice and respectful when business is booming. It’s a whole lot harder to be respectful when business is contracting and/or the business needs realignment. After the reduction is conducted, the main task is to regroup and motivate the remaining workforce. In order to accomplish this, you need:

1. A robust communication plan

The organization needs a communication plan with key messaging and everyone needs to use the same script to outside organizations, customers, vendors — as well as with remaining employees.

Be clear about the need and reasons for the RIF and the state of the business.

Beyond that, ensure that people know who they’re working with and the changes in the organizational chart so people can get their work done. The sooner you get people working efficiently again, the better off you’ll be. To the extent there is confusion and disruption, the organization will continue to bleed morale and people.

2. Acknowledge emotions and low morale

During a RIF, productivity goes down. People are afraid for their jobs and upset that friends and co-workers were laid off. It’s inevitable that emotions run high and productivity runs low. Acknowledge it and connect with people. Then, work hard at stabilizing the situation so people can focus on being a productive team again.

3. Give extra attention to top talent

When there’s a RIF and business is contracting, your top talent may start looking around for better opportunities. That’s why you need to give extra attention to your key players during a RIF and open the lines of communication so they express their fears and concerns about the organization and you have the opportunity to address them.

The last thing you want during a RIF is to experience a loss of your key talent while the business is contracting and productivity is down.
Conclusion

When a RIF is necessary, it’s important to consider all the relevant issues and execute the plan to rally and focus the troops on rebuilding the business. Spend time in the planning process and don’t get sloppy during execution. And, be sure to avoid these common mistakes which will destabilize the situation.

Common Mistakes

1. Not being clear about business reasons for the RIF (Note: If it feels arbitrary to your employees, those who are not impacted will fear they may be next on the “hit list”)

2. Not articulating clear, easy-to-understand criteria for layoff selection and/or not applying criteria consistently

3. Not paying attention to adverse impact and doing it “blind”

4. Rushing the process because it feels so painful

5. Not doing anything to help those impacted by the RIF (severance and/or outplacement services)

6. Not ensuring that company leaders stick to a communications script about reasons for the RIF, selection criteria, and stopping point for the RIF

7. Doing a RIF in a way that appears disrespectful and callous

8. Not paying attention to and/or securing your top talent

9. Forgetting to focus attention on those who are not part of the RIF and failing to realize many people will be assuming more duties, work, and responsibility post-RIF
10. Expecting employees impacted by the RIF to react negatively and hence treating them coldly and ushering them out fast versus allowing them a proper “good-bye” or closure

11. Shutting off system access to affected employees or turning their badges off BEFORE they have been notified their job was eliminated. Putting boxes outside the cubes or offices of those who will be impacted before they are notified is even worse

12. Telling a RIF’d employee, “I know how you feel”

13. Announcing there will be a RIF in the future of a certain number of staff. This massively distracts everyone in the company

A RIF can feel traumatic, but if you plan well and execute per your plan, it’ll be a blip on the screen as your team starts to rebuild and grow the business again. Your employees will see that you are able to make tough decisions that benefit the greater organization and that when you have to make them, you will treat people with fairness, respect, and dignity.
Steve Cadigan

“High-performing organizations today are compelled to lead with integrity and transparency. Nowhere is this put to the test more than when you face a staff reduction.”

Steve is one of Silicon Valley's hottest properties when it comes to people, talent, and culture. Prior to launching his own firm, Steve served as VP of Talent at LinkedIn from 2009 through 2012. The groundbreaking work that Steve did at LinkedIn as the executive responsible for culture, leadership, talent, and organizational development is widely seen as the textbook example of how a company can leverage its culture to scale profitability in record time. Steve's work building LinkedIn's culture led Stanford University to build a case study about it and today it is taught to their business students. Steve now helps organizations worldwide to develop winning talent solutions. With more than 25 years of leadership and executive experience in global Human Resources, Steve has practiced HR in the US, Canada, and Asia-Pacific within a variety of industries. Over the course of his career, the teams, cultures, and organizations he has led and helped build have been recognized as exceptional, “world-class” performers by the Wall Street Journal and Fortune Magazine.

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