



This blog is published following Creative Equals webinar for ISBA members on **Inclusive Restructuring: why it's business critical to consider diversity**.

You can view the video of the webinar here: <https://youtu.be/dr40z-b0SM4>

### **What will you gain by watching the webinar/reading this blog?**

- Ways to think about putting inclusion and diversity at the heart of reorganising so you don't end up managing diverse voices out of your business
- Understand how bias can show up in the restructure process and how to mitigate it
- How to stay on the right side of the law
- Why it's important to keep your top talent
- How to end up with the right team to take your business forwards

## **Ten steps to safeguard inclusion during restructuring**

As many businesses start to restructure, it's business critical to keep your top talent. The latest McKinsey & Company report tells us now is the time to prioritise diversity, as companies who stay diverse will be the ones who will thrive, looking for new ways to innovate and create through in a challenging economic environment. The challenge is, however, restructuring can be biased, plus as human beings our natural instinct in a crisis is to revert to how we feel 'safe'. This content will make you think in a whole different way about how to re-organise your business to become future proof.

Right now, companies and individuals are facing an unprecedented level of uncertainty and change. Naturally, this uncertainty and adjustment to structures within organisation sometimes requires restructuring, which we should approach in as inclusive a way as possible. Fostering a coordinated, inclusive approach to our restructuring process is key to maintaining a happy, productive and sustainable workforce into the future.

### **Why are we here?**

Vulnerable groups have faced the forefront of the Covid-19 crisis. Inclusion Pulse survey data - compiled by Creative Equals in partnership with Campaign Magazine and Michael Brown (UM Group) - highlights the reinforcement of inequalities over the last few months. We know working mums are more likely than any other group to have taken a salary reduction while working the same hours, ethnic minority groups are most likely to report unfair treatment by their company, and the LGBTQ+ community are most likely to have struggled psychologically over the course of the pandemic.

There is work to be done to ensure these groups are not treated unfairly at the hands of a restructuring process that places inclusion on the back burner.

### **What's the law?**

The law around restructuring is complex. Shilpen Savani - Partner, Dispute Resolution and Employment Law at Gunnercooke LLP - demystified the legal picture:

1. Build in challenges to your process: self-test so you avoid particular groups, teams or individuals making the decisions. Keep the process as objective as it can be.
2. If in doubt, you must revert to objective and defensible selection criteria, rather than any protected characteristic.
3. Do not predetermine the outcome of the process in any way - it's better thinking about what you would like to avoid.
4. Furlough should not have anything to do with redundancies. Do not equate 'out of sight, out of mind' with people who should go.
5. There is no statutory test for fairness of redundancies - your process should be defensible. You need to be able to explain the steps that were taken to safeguard against unfair outcomes.

### **How can HR support the process?**

Liz Nottingham - former Executive HR Director at R/GA - recommended the following tips for beginning your restructuring process:

6. The leadership team needs a full briefing from an external advisor on the full redundancy process and the associated risks. The team should have unconscious bias training and agree how you will be with each other at this time.
7. Compile a people data picture of your current business and break this down by department as a lens to refer to throughout and to cross check your thinking and any bias.
8. When identifying potential roles and any departments to be placed at risk of redundancy a trained, diverse panel should review these proposals and challenge the thinking. All voices need to be heard as "Everyone is right, only partially." Another view can help hold you to account and check for bias. Could other business divisions/leadership teams support each other with an independent and objective voice?
9. Remember that how you treat people today will determine who stays with you tomorrow. What levels of engagement and trust are you hoping for the end of all of this?
10. Be mindful of how you manage the communications as these difficult meetings are now remote, online with the usual relationships and friendships not immediately available to support people. Preparation is key, along with deep listening and eye contact and finding a suitable time (including avoiding Fridays). Make sure that EAP and MHFA are offered as support.

### **What's next?**

Restructuring brings unique challenges to every business. It involves confronting hard truths, reconciling business need with human connection, and harsh objectivity in the face of emotional challenge. Inclusivity should not be lost while processing these decisions, and the impacts of bias at every stage of the process should be mitigated against.

Over two-thirds of all groups surveyed in May C-19 Inclusion Pulse survey stated that Covid-19 would worsen diversity in advertising, media, tech and communications. This is our opportunity as a sector to take the blinders away from our eyes, mitigate bias and embrace a future built with inclusion front of mind. It's our chance to prove the statistics wrong, to show that we're standing up for employees from all backgrounds, and to second-guess our own choices to ensure an industry that reflects the diversity of creativity in this country.

To find out more about how to embed inclusion into your business visit [creativeequals.org](https://creativeequals.org).

Please note: The suggestions made in this article are not a substitute for legal advice. They are made without legal liability.