Top Labour Questions Employers Asked During The Tariff War – And What You Need To Know Now



In response to the economic uncertainty triggered by the imposition of U.S. tariffs, our Labour and Employment Group consulted directly with clients to better understand the workforce-related challenges they are facing.

We invited employers to share their most pressing questions – ranging from maintaining employee morale to navigating layoffs, managing severance obligations, and reducing costs without compromising their workforce.

Based on those conversations, we developed the following Q&A to address recurring themes and provide employers with clear, practical guidance to support strategic decision-making during periods of economic disruption.

Whether your organization is responding to current market pressures or preparing for future uncertainty, these insights are designed to help you take proactive, legally sound steps to protect both your business and your people.

Question: How can my organization help support employee morale in times of economic uncertainty?

Employee morale is crucial to the continued success of your organization, particularly during times of economic uncertainty. Fortunately, there are many steps employers can take to support employee morale.

1. Prioritize open and transparent communication

Being transparent with staff about your organization's current situation, ongoing challenges, and future objectives demonstrates that leadership values its workforce and fosters a sense of unity. This approach helps employees feel that they are working together with the organization toward a shared goal.

Maintaining open and honest communication with employees can also go a long way in alleviating their concerns and engendering trust and loyalty in the employment relationship. When employees feel trusted and involved, they are more likely to remain committed to your organization. When employees understand that their employer is trying to manage difficult economic times in good faith, they are more likely to

engage constructively, be flexible regarding changes to their employment, and contribute to a collaborative environment that supports resilience and adaptability.

2. Work with unions, not against them

In unionized environments, candid communication between employers and unions about your organization's circumstances and outlook can be a very effective strategy for maintaining employee morale and managing staff concerns.

When employers have healthy relationships with unions based on honesty and good faith, this can lead to union support for employer initiatives. Unions are, by their nature, often critical and skeptical of employers, so when unions are supportive of employers, it often leads to unionized employees having trust and confidence in their employers.

It is in both an employer's and union's best interest to ensure the viability of an employer's operations, so if there is trust in the employer-union relationship, this can also result in unions being more flexible in working with employers to manage through difficult economic times.

3. Workplace Psychology Consultants

Employers should also consider retaining a workplace psychology consultant to work with their staff. Workplace psychology consultants work with employees to identify working conditions that adversely impact their mental health. Often, this can lead to lasting solutions, but the act of retaining a workplace psychology consultant alone sends a positive message to staff that can support employee morale.

Question: How can my organization trim costs related to its staff without having to let people go?

Employers have various options to reduce staff-related expenses without resorting to terminations. Here are **our top three strategies** to help manage costs while retaining your workforce:

1. Temporary unpaid layoffs

One cost-saving option is to place employees on an unpaid temporary layoff.

- In **unionized work settings**, employers will often be permitted to place employees on a temporary lay off for *bona fide* business reasons, provided that it is compliant with the applicable collective agreement and labour code.
- In **non-unionized work settings**, an employer is generally permitted to place an employee on an unpaid temporary lay off for certain periods of time, provided that the employee has a valid and enforceable temporary layoff clause in their employment contract entitling the employer to do so. In the absence of a temporary layoff clause, a unilaterally imposed layoff will generally constitute a dismissal at law. However, even without a temporary layoff clause, an employee may be placed on an unpaid temporary layoff if the employee agrees to it (i.e., it is not unilaterally imposed on them).

2. Leveraging government support programs

Employers can also take advantage of federal programs designed to ease payroll expenses:

- The federal Work-Sharing Program provides income support to employees who work

reduced hours for a period of up to 76 weeks

- Employers can also register a Supplementary Unemployment Benefit (or "SUB") plan with the federal government, which allows employers to top-up EI amounts paid to employees up to 95% of their normal weekly earnings.

These programs help reduce the financial burden of wages while maintaining employment relationships.

3. Voluntary departures through buyouts or attrition

Another option is to offer **buyout packages** or **voluntary attrition plans**. Under these arrangements, employees may choose to end their employment in exchange for a lump sum or other negotiated benefits. The costs involved are usually much less than what would otherwise be owing if the employee were dismissed, and since employment ends by mutual agreement, there is rarely any risk of a wrongful dismissal lawsuit ensuing.

Question: What "essential" employer responsibilities should my organization be mindful to not forgo in the process of cutting costs and streamlining processes?

While organizations will be looking at all options to cut costs, employers must be mindful to fulfill certain essential duties to avoid liability, including providing employees with training, tools, supervision, and a safe work environment. They must also ensure proper payment of wages, respect contractual rights, and maintain workplace health and safety. Any cost-cutting measures that prevent an employer from meeting these obligations must be avoided.

Determining which actions are essential requires good judgment. Employers must assess whether a proposed cut hinders their duties before implementing it. Some cost-saving measures may seem beneficial in the short term but can lead to greater financial risks in the long run.

For instance, using AI to draft or update employment contracts instead of proper legal review may result in errors, leading to unexpected liabilities. Similarly, misclassifying employees as contractors can result in costly legal disputes.

Another mistake is cutting processes that ensure due process in human rights or workplace safety matters, such as disability management and family status accommodations. Economic downturns do not absolve employers of these obligations.

Ultimately, short-sighted cost-cutting can create greater risks. As Benjamin Franklin wisely said, "An ounce of prevention is worth a pound of cure." When it comes to essential duties, employers should prioritize compliance and long-term stability over immediate savings.

Question: What are my organization's potential severance liabilities owing to employees and how can it reduce them?

If your organization is considering downsizing your staff, your potential severance obligations depend on a variety of factors, including the following:

- In unionized environments, employees typically cannot be dismissed except for just cause, in which case no severance is owing. In cases where unionized employees can be dismissed without just cause, severance entitlements will be dictated by the applicable collective agreement.

- If an employee is terminated as a result of economic challenges, the termination would be considered to be “without cause.” Generally speaking, an employee will be entitled to notice or pay in lieu of notice of termination in these circumstances.
- If the workplace is not unionized, the employer should review any written employment agreements to see whether they contain a termination provision that sets out how much notice/pay in lieu should be provided.
- At a minimum, employers will be required to provide employees who are dismissed without cause with notice of dismissal or pay in lieu of notice required under the applicable employment standards legislation. This entitlement varies across provinces but generally provides for approximately one week of notice per year of service to a maximum of eight weeks. Note that, in many provinces, there are enhanced statutory severance obligations for group terminations that apply when a certain number of employees working in a certain location are dismissed within a certain period of time.
- In addition to statutory notice under employment standards legislation, if there is no valid termination provision in an employee’s employment contract, then the employee will be entitled to reasonable notice of dismissal in accordance with common law. There is no set formula for determining common law notice. Courts will look at a variety of factors but normally consider: (1) age; (2) length of service; (3) nature of the position; and (4) the availability of similar employment, having regard for the employee’s experience, education, and qualifications.
- Strategies to reduce severance liabilities include having well-drafted employment contracts in place, providing working notice periods instead of (or combined with) pay in lieu of notice, and assisting employees with finding new employment post-termination.

Question: If my organization needs to lay off or dismiss employees, what factors should it consider in deciding who should be laid off or dismissed?

The decision to temporarily lay off or dismiss employees, and who to lay off or dismiss, should be based on a variety of factors.

As mentioned, if the employees who are being considered for layoffs or dismissal are unionized, the collective agreement would govern. Dismissals without just cause are often not permitted under collective agreements, but layoffs typically are. More often than not, collective agreements dictate the process for layoffs, often requiring that employees be laid off by reverse seniority.

If the employees your organization is considering for layoffs or dismissal are not represented by a union, factors you should consider in choosing which employees to temporarily lay off or dismiss include:

- the net cost of dismissing the employee versus retaining the employee (including factors like whether the employee has a temporary layoff clause or termination clause in their employment contract);
- whether any employees are receiving or have recently requested workplace accommodations, or whether any other factors are at play that could result in the dismissal or layoff being found to be discriminatory;
- whether any employees have recently complained of workplace safety issues, human

rights issues, privacy issues, employment standards issues, or any other issues which could result in the dismissal or layoff being found to be retaliatory;

- whether your organization has evidence in place supporting a business case for laying off or dismissing the particular employees in question;
- the location in which your employees work and whether that will result in any enhanced severance obligations under employment standards legislation for group terminations;
- which skills are aligned with the company's current and short term needs given the current political climate, the tariffs imposed, and economical forecasts.
- which employees have exhibited lower productivity or performance issues; and
- which employees have hit their respective insurable hours and insurable earnings thresholds entitling them to collect employment insurance.

No matter which criteria your organization uses to make the decision, it is important to remember that dismissals in all jurisdictions require minimum statutory notice and possibly additional common law notice to be given to dismissed employees.

To avoid claims from employees down the road, your organisation should engage its employment counsel prior to executing plans to temporarily lay off or dismiss employees.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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