

# REDUNDANCY A SURVIVAL GUIDE

As the economic crisis deepens and a wave of redundancies threatens to engulf adland, experts offer their predictions and give advice on how to get ahead of the curve. By John Tylee

Getting Belinda Kent-Lemon on the phone to talk about the wave of redundancies threatening to sweep across adland isn't easy.

The founder of Occam HR, an outplacement and talent management specialist working with many of the UK's leading agencies and media companies, has been finding herself in back-to-back meetings as her business goes into overdrive.

In the space of just 48 hours, eight companies sought her help in finding alternative jobs for axed staff. Ominously, she says that these are not the dead wood that invariably gets pruned at a time of economic downturn.

All are high-calibre and long-serving departmental managers, many of them commanding annual salaries of more than £100,000.

If Kent-Lemon's experience is any yardstick to go by, then the industry jobs market is about to become grim. Employment consultants report that good planners – previously renowned for their scarcity value – are turning to them for help. So are the digital specialists who were once thought to be immune from any credit crisis.

Signs that agencies are prepared to ditch what most would perceive as their "crown jewels" are a measure of how desperate they are becoming.

Reports are emerging of some companies considering quitting the IPA because they can't afford to retain their membership. Sources acknowledge that the number of agencies not renewing their membership has been higher than usual.

"Agencies will scrutinise memberships of trade bodies like everything else," an IPA insider says. "In the past, these payments would just have been nodded through."

Now the spotlight has been turned on staff numbers. "We've pruned the dead wood, reduced the taxi bills and cut out the flowers. That's the easy part," an agency boss explains. "But in the end, you have to let senior people go. You can't make the numbers simply by firing a junior creative team."

One of the big differences between the current recession and those of previous decades is the hands-on approach of network bosses, whether in London, Paris or New York.

John Banks, the Imagination chairman, ran Young & Rubicam in London during the recession of the early 90s.

He says: "At that time, holding companies didn't have such a tight grip on their organisations, which is why their agencies may have been slow to react. Today, the holding companies are on the case much earlier to demand that you make the cuts."

As a result, it may be a long time before another IPA Census shows such a healthy-sized industry workforce as at the end of last year. Then, a record number of people (more than 20,000) were employed in UK agencies.

For the moment, everyone is holding their breath. Although calls to the Nabs helpline for the last quarter of 2008 (most of them redundancy questions) were up by 179 per cent on the same period in 2007, the axe has yet to be seriously swung.

But no-one doubts that the blood-letting is imminent. Almost every call being made to the IPA's legal experts is from an agency requiring advice on how to handle redundancies. Worryingly, most of the inquiries are not from those planning to shed a couple of employees but groups of staff.

There's consolation to be drawn from the fact that agencies have got better at spotting storm clouds on the horizon – some as early as last June – and have trimmed sails accordingly. "We have become more adept at managing the margins," Tim Lindsay, the TBWA\UK president, says.

Many, however, believe that agency groups stayed their hands last year,

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**Bob Willott, director, Fintellect**

because they wanted to avoid having to include big redundancy settlements in the annual figures.

So far this year, the feared "blood-bath" has failed to materialise as agencies try to work out which direction the economic wind is blowing. "No agency is going to be in a hurry to fill any £150,000-a-year jobs at the moment," a consultant says.

"Over the next few months, we'll have to take bets about what the rest of the year will look like," the boss of a major agency says.

Currently, the IPA says job losses are patchy, although their true extent may be difficult to calculate. Agencies may be spreading their redundancies over an extended period to avoid the hassle of having to inform the Department for Business, Enterprise and Regulatory Reform, formerly the Department of Trade and Industry.

Some industry onlookers are suspicious that a few agencies are breaking the rules by keeping quiet about the scale of their redundancies.

IPA sources suggest that the crunch will happen in April when many client contracts come up for renegotiation and the effect of the recession on adspends becomes apparent.

Bob Willott, a director of the financial research consultancy Fintellect, says: "I would be very surprised if the industry headcount at the end of March isn't substantially lower than it was at the end of last December."

The boss of one top-20 agency is even more forthright, predicting that adland will lose between 20 and 25 per cent of its workforce by the end of the year.

As to which agencies are most likely to be shedding jobs, Willott suggests that it will be those whose low level of working capital leaves them vulnerable to any loss of business. Equally exposed will be the companies that are dependent on a small number of budget-slashing big clients.

Mandy Merron, a partner at the accountancy firm Kingston Smith W1, believes that agencies with client profiles skewed towards retail, leisure and financial services will suffer the most.

She adds: "I've heard anecdotally of retailers putting their agencies on hold for three to six months. Can agencies afford to keep teams together for those kinds of periods?"



Trying to work out how the current downturn will progress by looking at what happened to the industry during previous recessions is difficult.

In 1993, the industry's workforce dived to its lowest-ever level of 11,100. IPA figures from that period show that adland lost more than 1,000 suits and more than 200 copywriters during the preceding four years.

However, this may be no guide to what is happening now. For one thing, the industry's structure has changed a great deal since the early 90s. For another, the industry itself was shrinking. There were 257 IPA member agencies in 1989 compared with 224 in 1993. The current figure is 272.

What's more, the adland of a decade ago was not burdened by the so-called TUPE regulations, which, following a period of sustained collaboration

between agencies, now threaten to set one against another.

The controversial rules require the transfer of staff working "wholly or predominately" on an account, and their contracts and liabilities such as redundancy, from the incumbent to the new agency when an advertiser decides to switch.

"No agency wants to make redundancy payments if it doesn't have to," Marina Palomba, the IPA's legal affairs director, explains. "But while they argue about who is responsible, a lot of people will find that they're not being paid or employed by one agency or another."

An added complication is meeting the requirement for BERR to be told and for 30 days of written notification to be given to staff, if between 20 and 99 of them are to be axed.

In cases where there is a union representative, the employer must involve them. If not, an employee spokesperson has to be elected. "We'll always try to be as generous as we can," an agency boss says. "But employment laws in the UK are pretty tight."

For those who find themselves in possession of a redundancy cheque, the best advice is not to do anything impulsively and to be prepared to be flexible and patient.

Employment consultants emphasise the importance of a well-crafted CV and establishing an online profile. They warn against the temptation to call all your best contacts within hours of getting the chop to ask if they might have something for you.

"You just end up feeling crushed because they probably don't have anything," a consultant explains. "And if

## The survivor

**Naana Orleans-Amissah worked as an account planner for six years at glue, Publicis, VCCP and The Good Agency. Asking for redundancy has allowed her to create a patchwork life that includes working as a freelance planner, pursuing her interest in holistic therapy and being involved in the voluntary sector.**

Maybe it will be a discrete announcement, department by department. Or if the agency that you work in has a large enough meeting space, then perhaps you'll hear the news all at once. But by then the rumour-mill will already have been grinding furiously for days, so you'll know before the announcement itself that the company needs to make some redundancies.

In the week before the formal consultations start, you may intermittently be seized by a paralysing fear at the thought of having no steady income. This will be especially acute if you've been working at your agency for less than two years, because you'll have no right to statutory redundancy.

However, because it will all seem like a hazy future, you may also indulge in an elaborate fantasy at all the parties you'll throw, the countries you'll explore and the books that you'll devour now that the prospect of "free time" opens up like a paradise before you.

More likely, the realisation that you haven't saved enough to maintain your current standard of living, let alone some pipped-up version, will dampen your mood a little. Eventually, when you are summoned for the formal consultation, with your ears burning and a sense of shame crawling on your face, you'll realise that this is real, this is happening to you. And it's scary.

What I remember most strongly about my redundancy at Publicis was the swiftness of it all. This compounded my shock. Just as I got used to the feeling of my mouth hanging open in a Munchian "O", waiting for the reality of it all to bite, it was over. The HR team were *über* professional and having a finite end in sight was the best thing for everyone.

Yet in that comical perspective that time gives you, I can only compare the experience to a radio ad in which the T&Cs are read very quickly, which leaves you with that inevitable feeling that you've understood nothing. I was left with a strong feeling of powerlessness. I remember walking back to my desk after

the consultation meeting, slumping into my chair, sighing out loud and mumbling something to my neighbour about being made redundant and dissolving into that sniffling embarrassed cry that other people try not to notice.

Then, in that haze of suppressed panic, a fortunate thing happened. A kind mentor joked irreverently about how many times he had been "paid to leave" his job. Crucially, he reminded me that although the process was often painful, it always led to better things. So I made a plan. I spoke to friends and acquaintances inside and outside the industry. You'll be surprised how many people have been in the same situation when you open up and speak honestly, and just how rich a store of information they are. They may have contacts (try and get two names out of everyone you speak to), know about job openings (interviewing out of the sector is good practice and forces you to look at your skills objectively) and offer tips for negotiating your exit gracefully, which is in your best interest.

This last point is especially important at a time at which you may feel vulnerable and without a stable foothold. I remember receiving great advice that if I couldn't negotiate for more money, I might ask the company to pay for a career consultation or outplacement.

Although this came later, I did set myself the task of learning something I'd always wanted to do but had never had the time, courage or focus to do. That's how I became a massage therapist. Together with exploring my interest in the voluntary sector, this gave me a long-term direction and a much-needed lift to my battered self-confidence.

I was learning to define myself by more than my work. I also interviewed widely to remind myself of what I liked about the industry and to give myself time to work out what I wanted to do and where. This required discipline – making sure that there was a meeting pencilled into each working day in my diary, whether with prospective employers, recruitment agents or another contact.

I worked at finding a job for 40 hours a week, with the same dedication as when in full-time work, and the reward was a new position eight weeks later. Above all, the planning and networking skills that I learnt after my redundancy gave me the courage several years later to create a weekly routine that includes account planning, massage and working in mental health.

"The mistake that some make is to cut those who add value but who aren't client facing," Lindsay points out. "Cut too many planners and creatives and you end up with a distorted agency with a lot of account people." Agencies where senior management experience is limited are most likely to find themselves in this predicament. "There are quite a few agencies where senior managers not only haven't experienced recession before but weren't even working when the last one took place," Merron comments.

How long all this will last is anybody's guess. Nobody is expecting much improvement before the first quarter of next year. It may be scant consolation but as Merron adds: "Marketing budgets are always the first to be cut as we go into recession. But they should be the first to lead us out of it."

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## The lawyer

**Brinsley Dresden**  
Partner, Lewis Silkin

With daily reminders of the economy plunging into recession, another “r” word is on everyone’s lips: redundancy. What are your rights should you find yourself in the firing line?

If you are an employee – as opposed to being self-employed or supplied as a contract worker – you can claim unfair dismissal if you have at least one year’s service. The law requires employers to give a fair reason for dismissal and follow a reasonable process.

Redundancy can be a fair reason for dismissal as long as there is a genuine redundancy situation. Essentially, there must be a reduced requirement for someone in your role. If there is, and your employer adopts a proper procedure, it may be hard to challenge the decision.

The procedural steps are, however, quite complicated and employers often get them wrong. If you know what you’re entitled to expect, you may be able to take advantage of any slip-ups to negotiate a better settlement or, as a last resort, pursue a tribunal claim.

In particular, there are three minimum procedural steps set down in law that employers must follow:

- A letter outlining the redundancy situation.
- A hearing to discuss it.
- An opportunity for you to appeal against your redundancy if it is confirmed.

Your employer needs to explain why you have been identified as being at risk of redundancy and show that a fair, objective selection process was followed. Any discriminatory reason

for your selection, including pregnancy, gender, race or age, can be challenged, but this is usually difficult to prove.

Redundancy may seem inevitable, but your employer should keep an open mind when consulting with you and consider whether there is alternative employment that might be suitable, or other possible ways of avoiding your dismissal.

Regardless of whether you have a potential unfair dismissal or discrimination claim, you will be entitled to a statutory redundancy payment if you have been employed for at least two years. The amount depends on your age, length of service and pay, with a current maximum of £10,500. Sometimes employees are entitled to additional redundancy pay under their employment contract.

In practice, your employer is likely to offer you a lump sum pay-off in return for you signing a “compromise agreement”, under which you waive any legal claims that you may have. You will need to see an employment lawyer to advise you on the terms of the agreement (although normally your employer will pay the fees).

Throughout any redundancy process, be careful to conduct yourself properly. If you are required to remain at work until a final decision is made, don’t give your employer the opportunity to dismiss you for misconduct.

Finally, take careful notes of any meetings you have with your employer and keep copies of all relevant correspondence. This will enable you to assess whether your selection for redundancy is reasonable and non-discriminatory and if a fair procedure has been followed. Should errors have been made, you may be able to use them to your advantage.



## The headhunter

**Liz Harold**  
Managing partner, Liz H + Grime

Here we go again: difficult times, cut-backs and redundancies. I have come through to the other side of two previous recessions and 9/11, which left the world stunned and advertising paralysed for almost a year. There was an inevitable fall-out with redundancies following all of these unexpected events.

On a positive note, for some people this presented an exciting opportunity to make the change that they had been thinking about for some time.

So for them, and for those not relishing unemployment, with mortgages to pay and mouths to feed come what may, there are immediate steps you can take.

First, ensure that the compensation you are being offered is the most you can get. You could contact Nabs, a truly marvellous organisation, which will help you negotiate this and offer good advice on how to cope with your change in circumstances.

Then, make a list of all the creative directors you’ve worked for and your mates in other agencies. Let them know that you are available for work.

Time off also presents a great opportunity to re-organise your portfolio. Update the information and put it on a website so that it can easily be accessed by anyone who is likely to consider you for freelance work. Make sure that your website is easy to follow. For speed, use a pre-built website template, which allows you to upload work and showcase your skills, as well as your open mind when it comes to digital solutions.

Your CV will require updating too, and if you’ve won notable awards then include references to them. But keep them concise and use your energy on the portfolio. No-one wants to read lengthy CVs that are too wordy for no reason.

At this point, a trip to your friendly headhunter, whoever he or she may be, to get help in finding some freelance work is a good idea. Apart from your mates, they will know which agencies use a freelance resource on a general basis and, of course, those who don’t but find themselves needing it from time to time.

Think carefully about what your daily rate might be, according to your experience and award-winning work, and always be open to negotiation if an agency needs to keep costs to a minimum. There will often be someone who is willing to reduce their rate right behind you, so be flexible, open-minded and indispensable. Sometimes, although it’s not to be expected, a permanent role can arise from freelance success.

Be prepared to travel away from the main ad agencies in London to provincial agencies or even outside the UK to secure freelance work.

Keep active while you are job-hunting and seek out projects on which you can be creative. Work for a charity, make music promos, go and see the exhibition that you never made it to when working full-time. Do anything to stimulate the creative mind to show that you are constantly in pursuit of the most creative solution.

Finally, keep positive! The 2012 Olympics are approaching and this gloom can’t last forever. They promise to give us the advertising upturn that we are all looking for.



## The freelance market

Will the recession end adland’s dependence on freelancers or will it turn to them increasingly to fill the gaps in a threadbare permanent workforce?

At present, it’s impossible to know. What’s beyond question is that the industry has long been making use of freelance and temporary workers.

More than 1,200 of them currently work in the 272 IPA member agencies, almost 38 per cent of them in creative departments.

On average, agencies each employ about 4.4 temps and freelancers to augment their salaried staff. Some regularly use many more than this.

It’s an arrangement that has always suited both parties. Agencies, conscious of the need to keep overheads under control, like a system that allows them to pull in people when the workload rises without having them tied to PAYE contracts.

Many freelancers, particularly creatives, relish the flexible way of working and the constantly changing challenges it brings.

Whether or not this happy system of mutual dependency can weather the current economic gale is an open question.

Liz Harold, the headhunter who helps to deploy many freelance creative teams, says the market has stabilised after the panic that gripped it when the banking crisis struck in September.

“It seemed as though every agency in town was throwing out their freelancers,” she recalls. “But it was a kneejerk reaction because everybody was afraid. Now I’m being asked again for freelance teams because creative departments are paring down and everyone is working much harder.”

Others, though, are more sceptical and believe that the amount of freelance work, whether it be creative or consultancy, will decline.

“The freelance market will contract because of the numbers of people likely to be flooding on to it,” an employment consultant says. “Agencies aren’t going to spend money unless they have to.”

For its part, the IPA isn’t expecting the freelance market to disappear overnight. However, a senior executive admits: “It’s possible that there will be a significant drop in the number of freelancers being used.”

Not that freelance life will suit every ex-agency person forced on to the jobs market. Harold compares the freelance route to running your own small business.

“The good freelancers are the ones who organise themselves well and are prepared to work the unsociable hours, weekends included, if necessary,” she says.

“The most important thing to remember is that you must always be thinking about your next job, even while you’re completing your current one.”

