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MONEY BOX

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LEWIS: Hello. In today's programme, redundancies hit a 15 year high as more than 23,000 people are let go every week. What are your rights when that letter arrives? Are customers in danger of being ignored as the regulator concentrates on making banks safe? Bob Howard's been looking at paying with plastic abroad.

HOWARD: Finding out if giving customers a choice of currency to pay for things is really just a way for retailers and banks to make money.

KIRSTY: They're doing this to every customer every day. They're making a tidy, little profit at our expense.

LEWIS: And more than a million customers of Aviva have to decide if they want at least £200 to give up their right to share in more than a billion pounds. Which way to vote?

But, first, every week more than 23,000 people are being made redundant. It's the highest number since records began in 1995. Unemployment also hit a 12 year high this week, with more than 2¼ million people looking for work. Some employers are trying to avoid redundancies by asking staff to make sacrifices. Honda workers came back after a long shutdown to face a 3% pay cut, and this week British Airways has asked its employees to consider working for nothing for up to a month to help the company through tough times. So what are your rights? And if you're an employer, how do you keep within the law? Well with me is

Sian Keall, employment partner with city lawyers Travers Smith. Sian, redundancy first. A growing number of people are actually winning money at tribunals because it's *not* done right. What has to be done by an employer to get this right?

KEALL: Well if you'd asked me this question a few months ago, I'd have been able to give you an absolutely specific answer, but the rules have changed slightly and there is a little bit more flexibility for employers. But certainly the expectation is that employers should be communicating with their employee in writing to make clear that there is a redundancy risk that relates to that employee's job. And of course this is all about making *jobs* redundant, not making *people* redundant. So it's important for employers to communicate that and also to have some dialogue with individual employees and meetings with them - one or more - to allow the employee to explain why they don't agree. So if you're an employee facing redundancy, you should expect to have an opportunity to tell your employer why you don't think that's the right decision.

LEWIS: And what about selection? That's the key thing, isn't it? Who do you choose to make redundant?

KEALL: That *is* the key thing. And when employees are in a selection pool, they'll often be told - and these are the words to look out for - that they're at 'risk' of redundancy. Now that doesn't definitely mean that they will be made redundant. Often they will be 1 of say 10 people or 10 roles from which 2 are likely to be made redundant. The key thing for employers is to make sure that their selection is fair. Objective tests - so perhaps disciplinary record. Length of service is difficult because that can lead to age discrimination issues. But anything that is measurable - so last appraisals are very important. If you're an employee and you've done a good job, make sure you get an appraisal because it can be very useful.

LEWIS: So you can be selected on the basis of your performance, but, as you say, not on the grounds of age or of sex or of race or of disability or ... ?

KEALL: Sexual orientation, race ...

LEWIS: Sexual orientation or religious beliefs.

KEALL: Yes, exactly.

LEWIS: And you can't be selected because you've been a whistleblower; you've reported them for health and safety or you're in a union, that kind of thing.

KEALL: Absolutely. Someone who is a whistleblower is in effect protected in the same way as one of the discrimination categories that Paul's just listed.

LEWIS: And what about not redundancy but employers coming and saying, "Look, I don't want to make anyone redundant, but to do that you've all got to take a pay cut"? Can an employer do that?

KEALL: Employees have a contractual right to the salary that they're promised - so in order to make a pay cut, an employer has to receive the consent of an employee. And the question is for any individual who's approached on this is do you think that you're happy - happy may not be the right word - but content to agree a permanent or temporary pay cut; and critically what effect might that have on your other benefits like life assurance, which is often based on your salary, or maternity pay for example.

LEWIS: Thanks for that, Sian. Also with us is Malcolm McLean who's Chief Executive of the Pensions Advisory Service. And, Malcolm, one big effect of losing your job is that you lose future contributions to your company pension. What happens to a pension when you leave a job?

McLEAN: That's one of the big issues, I think. We already have a problem in this country, as you know Paul, of people will be approaching retirement in the future with inadequate pension saving and this is going to add to the problem and indeed *is* doing. So one of the things that I think anybody should do in this situation is first of all find out what's going to happen to their pension. Is the pension going to be preserved for them, as it normally will be in the case of a final salary scheme? It may be possible even to start drawing that pension if

you're age 50 or above. Incidentally that minimum age will go up to 55 from next April, so you know if you're going to act on that it's between now and then. And generally find out what your position is. It may indeed be possible to actually put some extra money into a pension plan at this very late stage.

LEWIS: Maybe out of your redundancy money.

McLEAN: Absolutely. If you've got a lump sum redundancy, the first £30,000 would normally be tax free, but anything above that is taxable. So it would be a good idea possibly to get the employer to pay some of that money directly into your pension pot. So there are things you can do to boost it.

LEWIS: And when you get a new job - and let's hope everyone made redundant does do that eventually - should you transfer your pension to that new job?

McLEAN: Well I think people need to be very careful about that. It depends really on the situation in both cases. If you were in a final salary type arrangement, then that money will be held for you in the form of a pension within the old scheme. If your new employer, as the chances may be, is *not* providing that type of guaranteed pension but providing one where the money's going to be invested in the stock market and therefore there's more risk attached to it, it may not be a good idea to transfer it across. Certainly something to find out about. Find out how much it's going to cost you as well to do this, and then see if you can decide - with help, financial advice where necessary - what your best option is in that situation.

LEWIS: And Sian Keall, in ten seconds literally, could people look on redundancy as an opportunity rather than a disaster?

KEALL: Yes, it if allows them to capitalise on their skills and take a lump sum and start a new business, for example.

LEWIS: Sian Keall, thanks very much, and also Malcolm McLean who has a new leaflet out. We'd like to hear your experiences of workplace issues or redundancy through Have Your

Say on our website, bbc.co.uk/moneybox. Also links to Malcolm McLean's new leaflet.

Now the Financial Services Authority has four tasks. One is to protect customers. But there's a warning this week that that job is being ignored as the regulator concentrates on making sure banks don't start failing again. It came from the Financial Services Consumer Panel, and I asked the panel's Acting Chairman, Adam Phillips, what he wanted the regulator to do.

PHILLIPS: It would certainly be very helpful for consumers to have a lot more information about where the FSA has concerns about companies, and we would like to see more published. Not just naming and shaming, but also naming and praising.

LEWIS: You also say you'd like to see regulation of products, not just the process by which those products are sold. Which products are giving you most concern at the moment?

PHILLIPS: Well I think the obvious one is mortgages where there's no doubt that people were able to take mortgages out which were well beyond what they could afford. We think that there is a need for people to be able to buy products where comparison is easy to make and which are sufficiently straightforward that they understand the risks that they're taking on. The problem that we've had in the recent past with products is these structured products, which offer apparently very high levels of return but for which the risks are rather opaque. And you can lose all your money, and people have done.

LEWIS: So do you think structured products should be banned or controlled? How would you like that kind of regulation to work?

PHILLIPS: I don't think we'd like to see the products banned, but we'd certainly like to see a very strong health warning placed on the products.

LEWIS: You also want the FSA to take over consumer credit from the Office of Fair Trading. Is that something that will really help if you don't think already that the FSA deals properly with consumers?

PHILLIPS: We are concerned that there is a potential for a regulatory gap. For example, if you have an unauthorised overdraft, the first letter you receive will be regulated by the FSA. Any subsequent letters after November will be regulated by the Office of Fair Trading. We would like to see that joined up. So what we're asking for is that banks which are authorised by the FSA should be supervised for credit as well as for deposit taking by the FSA.

LEWIS: And do you think overall the FSA is now coming to take consumers seriously enough?

PHILLIPS: That's what we are going to watch very carefully. They have committed to do this at the beginning of this year. We want to see clear evidence that there is a change of behaviour. We will be watching very closely to make sure that this works. This really, in our view, is their last chance.

LEWIS: Adam Phillips of the Consumer Panel. Well neither the Financial Services Authority, nor any government minister, would talk to us today. But other politicians were more forthcoming. Liberal Democrat Treasury Spokesman Vince Cable says the problem isn't new.

CABLE: Even before this crisis broke, we had a whole succession of problem areas from Equitable Life, Split-Cap Trusts and the rest, where the FSA was felt I think to be failing consumers. The problem is now much worse because consumers are being ripped off across the board at the moment, whether they're savers getting very, very low returns or whether they're paying very high borrowing rates, and it's all to enable first of all the state banks to make a margin so they can pay back the Government and the private banks of course are taking advantage of the situation too. We have got to get back to a system where there is much more focus on the consumer. It's got to be done intelligently, it's got to be done sensibly, not as a complex box-ticking exercise. But I think it's perfectly reasonable to impose rules around, for example, mortgage lending, and also to define products in a way that the consumers' interest is properly protected.

LEWIS: Vince Cable. I also asked the Conservative Shadow Treasury Minister, Philip

Hammond, what he would do with the Financial Services Authority if his party was in power.

HAMMOND: I think the overarching priority is to make sure that we never again get into a situation where the taxpayer is being asked to bail out the banking system, and that would be our first priority.

LEWIS: If the Conservatives do win power, will the Financial Services Authority continue to exist?

HAMMOND: The Financial Services Authority, if it is to remain, will have to reform itself radically. But we've also set out other options, including at the other extreme transferring all of the FSA's roles into the Bank of England and making the Bank of England the overall regulator of the system.

LEWIS: Philip Hammond.

Some people are losing money when using their credit cards abroad, as a result of changes which were supposed to increase consumer choice. It happens because in some countries purchases or cash machine withdrawals can be billed directly by the retailer in pounds sterling instead of in the local currency. They're supposed to ask clearly for your preference, but that's not always happening, causing some customers to lose out. Bob Howard's been looking into this.

HOWARD: Paul, Kirsty from Warwickshire regularly hires cars abroad. Last week, she went for a short break to Spain and went to a local office at the car hire firm Centauro to pick up the vehicle she had reserved online.

KIRSTY: She said that the deposit would be 350 euros. They were actually taking it off my credit card. I punched in my PIN number, let the transaction go through. I didn't look at it when she handed it back to me. It was just the little slip that came out of the credit card machine.

HOWARD: Kirsty thought no more about it until she checked the receipt when she got home. She found the 350 euros she thought she had paid had been changed into sterling at an exchange rate set by the car hire firm's bank, not her own, and at the end of the receipt was this notice: *I accept that I have been offered a choice of currencies for payment. I accept the conversion rate amount and that the final selected transaction currency is sterling. I also accept that my choice of currency is final.*

HOWARD: But Kirsty says she wasn't asked whether she wanted to pay in sterling; and if she had been, she would have declined as she always does. And when she looked at her credit card statement, she realised that whilst the company took pounds, it paid her back in euros. Once that was converted, the end result was she lost £17 simply to provide a deposit.

KIRSTY: £17, you know it's not the end of the world. However, if they're doing this to every customer every day for every car hire, they're making a tidy little profit at our expense. That's a bit like giving the customer the small print after they've signed on the dotted line.

HOWARD: Centauro wouldn't be interviewed, but Luigi Bagnoli, its Commercial Director, told me the present deposit system was temporary and his employees were instructed to tell customers about the choice before the transaction. The day after our conversation, he offered to pay Kirsty back the £17. But could customers in Kirsty's position argue they hadn't effectively approved the transaction in the first place and get their card company to intervene? Sandra Quinn from the UK Cardholders Association thinks so.

QUINN: We wouldn't regard that as authorised. You're agreeing to a transaction, you're agreeing to the currency of that transaction. This wouldn't appear to have happened in these types of cases where you're agreeing transaction but not the amount. Our advice is always go to your card issuer.

HOWARD: Kirsty's Visa credit card was issued by the Nationwide Building Society, but when I asked it if its customers had a right to demand a transaction go through in the local currency - in Kirsty's case euros - I was told the chance of success was slim. But in fact Visa's own rules state that a bank can do exactly that. When I told Nationwide this, it checked

again and apologised, saying it could indeed make this request on behalf of its customers. It's symptomatic of the lack of clarity throughout much of the industry about how this whole process is supposed to work. And even when this choice is given to customers, does it ever benefit them? Martin Lewis, the creator of the website Moneysavingexpert, doesn't think so and has this advice.

M. LEWIS: Before we sign and accept payment, double, treble, quadruple check what currency we're paying in. The golden rule is when asked, "Do you want to pay in euros or pounds?", you say euros. Never accept the pound option. Why on earth would anyone really want to pay in pounds? It's generally there to benefit the retailers and the overseas banks rather than us.

LEWIS: Martin Lewis ending Bob's report.

Well Neil Horseman is Vice President Marketing for Visa Europe. I spoke to him about the rules issued to foreign retailers on how they should use this currency conversion process.

HORSEMAN: The cardholder has to be given the opportunity to opt into the dynamic currency conversion. They have to have full transparency of any fees or charges that are going to be levied towards them.

LEWIS: And if those rules are not fulfilled, that becomes an unauthorised transaction?

HORSEMAN: That is correct, yes. The cardholder is encouraged to contact their issuer. They have full recourse to actually what we call 'charge back', so effectively the transaction can be reversed and then put back through the system in the original currency - in this case, that would have been euros.

LEWIS: Not many people are going to bother to do that though, are they? It's just a way of shops making money out of the system, isn't it?

HORSEMAN: Well I couldn't comment on that because it's not a service that Visa provide.

LEWIS: But you allow it to happen and you set the rules, and the rules do *not* say you have to be given all the information to make a rational choice at the point of sale.

HORSEMAN: Well that's incorrect because our rules *do* say that you have to provide choice and full transparency of any fees and charges.

LEWIS: Does that mean then that if I'm offered the choice of euro or sterling and I am not told the rate at that point, I have not been given the information I need and that transaction can be reversed?

HORSEMAN: Correct.

LEWIS: Right, well that will surprise a lot of people. So just to be clear. I don't just have to be offered sterling or euro. I have to be told, without asking, the rate of conversion at that time, so I can make a rational choice - otherwise the transaction is invalid.

HORSEMAN: No, I'm not saying that.

LEWIS: Well that's what I asked before.

HORSEMAN: No, I said that our rules say that whoever is offering the service has to provide choice and full transparency.

LEWIS: And what does full transparency mean?

HORSEMAN: They have to be in a position to do that.

LEWIS: Oh right, so they have to be in a position to offer it to you but not give it to you unless you ask?

HORSEMAN: Our rules say to our member banks that that's what has to happen, yes.

LEWIS: Some confusion there. And there was more this morning when Simon Kline from Visa Europe rang me to agree a clarifying statement, but then, less than an hour later, rang back to withdraw it. Then in a third call, just before we came on air, on the key point of whether you have to be told the exchange rate before you agree to pay in sterling, he said the rules didn't say you did have to be told before you agree. So, as Martin Lewis said, the safest advice is to refuse to pay in sterling. It's going to cost you more.

More than a million policyholders who have with-profits funds with Aviva, the company which used to be called Norwich Union, should have received packs about the proposed reattribution of its surplus funds. The company's asking them to vote to accept payments of at least £200 to give up their rights to any future share of the £1.2 billion surplus. The deal is being recommended by Clare Spottiswoode, appointed by Aviva to represent policyholders' interests. But John Pilkington from the Norwich Union Policyholders Action Group thinks she's not done her job well.

PILKINGTON: Our concerns with Clare Spottiswoode are that we don't think she's representing policyholders at all. We have Articles of Association which say that the shareholders cannot receive more than 10% of the profits of a with-profits fund and our policies tell us that we will receive at least 90% of the profits of the with-profits fund. Therefore contractually policyholders must receive a minimum payment from the inherited estate of 90% of it or more, and therefore it's amazing that she's managed to conclude a deal which is worth 41.66% less than half of what policyholders should have.

LEWIS: I asked Clare Spottiswoode for a reply to that.

SPOTTISWOODE: I think people need to remember that, first of all, this is money that current policyholders didn't contribute to and nor did shareholders, so in effect it's a windfall amount of money. And the question is how is that windfall divided fairly between policyholders and shareholders?

LEWIS: But surely it's the law that matters and the implication of what John Pilkington said is that it has to be distributed 90% to policyholders?

SPOTTISWOODE: Unfortunately I wish it were so, but it just isn't so. Not least because of the FSA, the Financial Services Authority itself, which has created rules which ensure that it *can't* be 90/10.

LEWIS: How can the FSA introduce rules that overturn the Articles of Association and the general legal principle that it should be distributed in that ratio?

SPOTTISWOODE: The FSA allows the company to take money from the estate, but if there wasn't an estate they would have to pay for themselves. So there is nothing we can do to stop that because as long as the FSA permits it, the company would not do a deal unless that was taken into account. But much, much more importantly is the money is not expected to go to the current generation. The vast majority of it is expected to go to future generations. So only a very small percentage of this money would ever go to the current generation.

LEWIS: Are you saying to policyholders that this nearly 42% is the very best deal you could have got even though many of them, as we've heard, have been expecting 90% of this money?

SPOTTISWOODE: I think the thing to keep in mind is that people who currently have a policy could only expect on average around say 5%. It depends on the sums, but say around 5% of that estate. The rest of it would have gone to future policyholders over time and would never have come to the current generation. So in fact the 40 plus is very, very much better than the vast majority of policyholders would have got if there had been no deal.

LEWIS: The other point that John Pilkington and others have made to us is that are you really representing policyholders? Have you a mandate? They didn't vote for you, they didn't choose you. Aviva chose you and Aviva pays you, and their suspicion is that you are therefore in the pocket of Aviva rather than representing them.

SPOTTISWOODE: The FSA had to approve my appointment. And also I was interviewed by a few policyholders right at the beginning before I was appointed. I mean I would love to actually be appointed you know by vote because that would give me a mandate, so the way I

have dealt with this is to make sure that I am totally transparent, that everything we do is recorded in our report and in the various appendices, which is very long and extensive. So our record will be there for everyone to see and to critique and either be happy with or not. But it was kind of the only way we could do this kind of deal.

LEWIS: Clare Spottiswoode. Well live now to Danny Cox who's Head of Advice at independent financial advisers Hargreaves Lansdown. Danny, lots of emails about this one. One came in this morning from Mark. 'Can someone help us? Huge reports in my email'. 'Loads of rubbish', he calls them. 'Please help! Should we vote yes or no?' Should they vote yes or no?

COX: Pretty much yes, I think Paul. I mean essentially it's a special bonus, as Clare was just saying. The current policyholders won't benefit from this money; it's going to be future policyholders. So there's kind of an element of bird in the hand about this. So I'd be saying yes.

LEWIS: Right and what can people expect who do vote yes? £200 is the minimum, but the average is rather more and some people will get into four figures.

COX: Yes, it very much depends on the type of policy you've got, and in the voting packs it gives you an indication of what the minimum amount will be. They're saying that the minimum overall is £200. The average is about £500. But some people will get £1,000 or more. But this is all detailed in the pack.

LEWIS: And who would be better to vote no? Are there any people who can clearly look at it and say yep, I'm going to vote no. I'm better sticking it out?

COX: Well to be honest, I'm not a very big fan of with-profits anyway, so I'm pretty much going to be saying to people look vote yes and then take your money and run. So try and exit with-profits whenever you can. So for me, most people should be voting yes.

LEWIS: Right. Though I must say in Clare Spottiswoode's pack, she does list some cases

where looking ahead to, I don't know, the 2020s - if people have got long-term policies, they might just get a bit more. But it's all very up in the air, isn't it?

COX: It's very up in the air and I think if people are unsure, they should take advice. But in my view, if you're looking to invest for more than 10 years, you shouldn't be investing in with-profits; you should be investing directly in the real assets.

LEWIS: And if people do vote no, there's a 1.2 billion fund, or it may be worth a bit more now. If everyone votes yes, 500 million will go to them and the rest will go to the company. There'll be a little bit left for people who do vote no. What might they get in the future?

COX: Well I think this is the big thing, Paul, is we just don't know. We're not only relying on the performance of the underlying with-profits fund and the performance of this smaller inherited estate, but we're also relying on how Norwich Union decide to distribute bonuses from their actuary's policy. So this is the whole thing about with-profits: you just don't know what you're going to get.

LEWIS: Danny Cox, thanks very much. And there's now a 500 page guide on the choices on Clare Spottiswoode's site. Links to that and other things on our website, bbc.co.uk/moneybox. And, Bob, you have some good news for people travelling abroad?

HOWARD: Yes, people who've held a standard Abbey credit card since May this year won't have to pay a fee on transactions abroad from now until the end of July. The move by its owners, Spanish bank Santander, is the market's re-branding exercise. New credit cards issued by Abbey will carry the Santander name. Abbey's existing cardholders will be issued with the new look cards as they expire or if they're lost or stolen. The other Abbey credit card, the Abbey Zero Card, is already free to use abroad.

LEWIS: Thanks for that, Bob. Well that's it for today. Find out more from the BBC Action Line - 0800 044 044 - and our website, bbc.co.uk/moneybox. All sorts of exciting things there - videos, weekly newsletter - sign up, podcast, listening again, and of course have your say on employment rights. Many of you are. One man says, 'I've been asked to take a permanent pay

cut of 10%. I'm back on Wednesday with Money Box Live taking questions on ethical investing. Back next weekend. Reporter Bob Howard, producer Samantha Washington. I'm Paul Lewis.