



Thoroughbred Breeders' Association Employment Law Fact Sheet No. 13

Redundancy

A person is redundant where their job disappears or where the employer needs fewer employees to carry out that particular type of work.

Where one or more of a class or type of employee is to be retained, an employer must use fair selection criteria when making the selection. This should be based on non-discriminatory objective factors and possible criteria may be:

- Attendance records (although watch out for possible disability and sex discrimination)
- Skills
- Qualifications
- Capability

Wherever possible scoring should be backed up with evidence. It is important to ensure that records relied upon are accurate and up to date.

The traditionally used method of "Last in, First out" is no longer an acceptable criterion when used in isolation as it may suggest age discrimination but can be used in combination with further criteria.

Possible other criteria may be:

- Performance
- Initiative

Bear in mind that criteria such as these are subjective and accordingly you need to be able to justify scores by giving examples of particular incidents and dates.

Process

- The employee should be sent a letter advising there is a potential redundancy situation, why this has come about and that the employee's position is at risk. This letter should invite the employee to a meeting and make it clear that this meeting is to consult regarding the situation generally, any selection criteria and the employee's scores, to discuss alternatives he or she may suggest and to consider alternative employment. The employee should also be told of the right to be accompanied.
- The meeting should take place.
- The employee should be informed of the decision and of the right to appeal.
- If the employee does appeal, the employer should hold an appeal meeting – ideally with a more senior manager.

Consultation

This includes consultation on:

- The redundancy situation;
- The selection criteria;
- How any selection criteria apply to the employee;



- What alternatives there are to redundancy; and
- Whether there is any alternative employment that the employee could do.

Redundancy payment

Dismissal for redundancy must be with notice, and where the employee has more than 2 years' service, a statutory redundancy payment.

Statutory redundancy payments are calculated as a week's pay for every full year of employment to a maximum of 20 weeks depending on the age of the employee.

For these purposes a week's pay is capped at a maximum sum (usually reviewed each year). From 6 April 2024, the rate is £700.

Further information

Redundancy process:

[ACAS on Redundancy](#)

Redundancy payments:

[Calculating a redundancy payment](#)

Action points

- Ensure meaningful consultation takes place within good time.
- Ensure selection criteria are fair, free from potential discrimination and can be justified.
- Keep a paper trail and minute your conversations.
- When proposing to make redundant 20 or more employees within a 90 day period or less you will need to follow special rules on collective consultation (see [link below for details](#)) and inform the Department of Trade and Industry by completing Form HR1.
- Be aware that an employee on maternity, adoption or shared parental leave who is at risk of redundancy has the right to be offered any suitable alternative vacancy available (sometimes called 'first bit e of the cherry')...
- The Maternity Leave, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024 extend, from 6 April 2024, the existing statutory protection from redundancy that currently applies to employees on maternity leave, adoption leave or shared parental leave. The extension means that the protection will also apply to pregnant women and to new parents who have recently returned from any period of maternity or adoption leave, or from a period of six or more weeks of shared parental leave.

<https://www.gov.uk/staff-redundant/redundancy-consultations>

This information and draft documentation is provided by the TBA as a guide to members and does not constitute legal or other professional advice. It is not a substitute for individual legal advice and members are recommended to seek advice on their own circumstances from a specialist employment lawyer. The TBA does not accept liability for any loss sustained by members in reliance on the information published in this documentation.