



**Isle of Man
Government**

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Public Services Commission Redeployment and Redundancy Policy and Procedure

Office of Human Resources, Cabinet Office

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1. INTRODUCTION

The Public Service Commission (PSC) recognises that the Isle of Man Government is committed to continuous improvement in delivery of public services and providing value for money to the community. On occasion, this may result in organisational change which results in a staff surplus.

Any redundancy or redeployment that affects PSC employees will be dealt with in accordance with this policy, but at all times subject to the Employment Act 2006, the Equality Act 2017, the Redundancy Payments Act 1990 and the Redundancy Payments (Civil Service etc.) Order 1996. Nothing in this policy or procedure takes precedence over statutory provisions.

2. AIM

The aim of the PSC is to ensure that, as the Public Service transforms and adapts to change, the interests and concerns of PSC employees and the PSC are well managed. Where a staff surplus is identified the aim of this Redeployment and Redundancy Policy and Procedure is to ensure that the issue of redundancy or redeployment is administered in the most transparent, fair, consistent and sympathetic manner possible with preference given to redeployment over redundancy wherever possible.

3. SCOPE

This Policy and Procedure applies to all staff directly employed by the Public Services Commission (excluding bank, relief and casual employees) for 12 consecutive months or more by the time the post is deemed to be potentially redundant.

4. PRINCIPLES

The PSC is committed to avoiding redundancy situations wherever possible and to maintaining employment, but recognises that in some circumstances there may be no alternative but to consider dismissal on the grounds of redundancy.

Redeployment will be considered where a position ceases to exist or becomes surplus to requirements and is therefore identified as being redundant. Wherever possible, redeployment shall be within the employee's current place of employment, i.e. Department/Board or Office.

Every effort will be made to ensure that redeployment is to a comparable post at the same grade/pay band and level of responsibility, bearing in mind the particular circumstances and the need to provide the most efficient and cost effective service.

The Accounting Officer of the Department, Board or Office concerned shall have overall responsibility for ensuring that this Procedure is applied effectively and

consistently. At all stages of consultation employees should be reminded of their right to be accompanied by a work colleague or recognised trade union representative. Legal representatives or family members shall not be permitted to accompany employees during these procedures.

This policy and procedure will be reviewed every two years.

5. PROCEDURE

- a) Redundancies may arise as a result of, but not limited to:
- financial and staffing constraints and changes to service provision leading to the rearrangement of functions;
 - a decision by the Department, Board or Office to discontinue or curtail a particular service or activity;
 - reduced demand for a service or activity, or other workload factors;
 - technological change, development, automation or innovation which impacts workload and resource requirements;
 - Statutory change.
- b) The Department, Board or Office should consider the following options as an alternative means of resolving staff surpluses:
- explore changes to working practices to increase flexibility and reduce or eliminate the need for overtime, for example part-time working, job share arrangements etc;
 - termination of the engagement of agency or casual staff;
 - restrictions on recruitment;
 - natural wastage, i.e. non-replacement of resigning or retiring staff;
 - Introduce a Mutually Agreed Resignation Scheme (MARS);
 - redeployment initially within the Department, Board or Office concerned; thereafter across the wider PSC (See Section 6).

Only after the above have been investigated should Departments proceed to commencing redundancy procedures.

Whilst the Department, Board or Office will identify the work area from which selection of the potentially redundant post/s will be made, Departments must inform the Secretary/Assistant Secretary of the PSC of any potential

redeployment/redundancy situations in order that OHR can assist and facilitate discussions with the appropriate unions. The relevant trade unions shall be informed of any potentially redundant posts once the Secretary of the PSC has been informed as required above.

- c) If there are no other suitable options, the manager shall ascertain whether there are any volunteers for redundancy from the identified work area.

A. CONSULTATION

- a) Consultation between the Department, Board or Office and recognised trade unions/staff association will seek to reach agreement on ways to avoid compulsory redundancy. The purpose of a consultation will be to provide an early opportunity for a discussion on the various options for reducing the number of surplus posts identified or avoiding the need for redundancies, whilst, at the same time, seeking to achieve the required balance of skills and experience to meet operational needs. Such consultation should precede any public announcement concerning the possibility of redundancies and the formal written notices of termination of employment. Employees who are absent from work for any reason (e.g. maternity, annual or sick leave) should be provided with the relevant information and, as far as is practicable, be involved in the consultation process.
- b) Managers must consult directly with any employees who are not represented by a trade union. Employees who are not represented by a trade union may still seek support from a trade union representative or HR Advisor, OHR, engage with the Manx Industrial Relations Service for advice or seek legal advice as required.
- c) The manager shall arrange a meeting with the employee/s accompanied by their trade union representative or colleague, if they so wish. This meeting will also be attended by a representative from the OHR.
- d) The purpose of this meeting shall be to commence consultation and advise of the following:-
- the reason why redundancy is being considered and how the work area was identified;
 - the options explored to date to avoid redundancy as set out above;
 - the numbers and categories of posts potentially redundant;
 - how the pool of employees from whom those who are to be made redundant has been selected;
 - an indication of the present and proposed future (where applicable) organisational structure (with numbers and grades) and any changes that might occur (illustrated diagrammatically where possible);

- the arrangements to be made for exploring the possibility of redeployment elsewhere within the PSC i.e. the operation of the Redeployees' Register;
 - the way in which the redundancy will be carried out if redeployment should not prove possible, including the date upon which the post is redundant;
 - the method of calculating compulsory redundancy payments.
- e) The selection process may include a matrix or interviews. A copy of the draft selection matrix, if used, should be sent to affected employees and unions.
- f) Following the meeting the manager shall confirm the outcome (including scoring from the matrix if applicable) to the employee in writing. The employee will be provided the opportunity to comment on, or challenge the basis on which their scores have been calculated. The manager should take into account any comments and determine whether scores should be amended. Any amendments must be documented.
- g) The Department, Board or Office should invite any suggestions that the employee/s and/or their trade union representative or work colleague may have for avoiding redundancy. Any such representations should be made in writing within a reasonable timescale which should not normally exceed a month (timescale should be specified).
- h) The Department, Board or Office should give serious consideration to any proposals to avoid redundancy and representations put forward by staff, trade union representatives or work colleagues during the consultation period.
- i) Consultation should normally take place within a calendar month except in cases involving more than 20 employees, for which a minimum period of six weeks shall apply. During consultations the Department, Board or Office shall provide information, as available at the time, to employees and their Trade Union representatives about proposed redundancies.
- j) Once all options have been explored and if the proposed redundancy has been found to be necessary, the manager will advise the employee/s accordingly.
- k) Subject to the redeployment procedure at Section 6 below, the OHR will arrange to issue a notice of redundancy in line with the notice period for the employees concerned. The selection matrix, if used, showing the employee's scores should be included in the letter.
- l) Any employee who has received formal notice of redundancy, who unreasonably declines an offer of suitable alternative employment, or who unreasonably terminates a trial period in that employment, will normally forfeit the right to

redundancy pay (see Section 7). Employees will have the right to appeal against this decision (see Section 11).

B. VOLUNTARY REDUNDANCY

- a) Wherever possible a Department, Board or Office will seek to apply voluntary redundancy as a means to achieve the required reductions in staff numbers. However, the Department must ensure that it retains the necessary balance of skills and experience amongst its staff to meet its future commitments effectively.
- b) If more than the required number of volunteers is achieved through voluntary means, then selection by the manager shall be undertaken on the basis of retaining the employee/s whose qualifications, experience and skills best meet the needs of the service and to ensure the future viability of the service (see paragraph h under Selection for Redundancy).

C. SELECTION FOR REDUNDANCY¹

- a) If there are insufficient volunteers for voluntary redundancy then selection by the manager shall be undertaken on the basis of retaining the employee/s whose experience, qualifications, and skills best meet the needs of the service.
- b) Redundancy selection processes must be conducted fairly and objectively to avoid an unfair dismissal. It is sometimes necessary to identify assessment selection 'pool'² of employees whose posts are potentially redundant. The choice of an assessment group will be judged according to whether it meets criteria that does not result in discriminatory or unfair dismissal and falls within the 'range of reasonable responses' test (see also Employment Act 2006 Section 128).
- c) Selection pools will ordinarily include employees undertaking similar work and will usually be restricted to employees in the same team or place of work.
- d) It is not always necessary to have a selection pool. For example, where only one employee is affected or a whole service is closing. However where there is a pool of one, it must be demonstrated that the employer acted reasonably and

¹ Identifying the wrong pool could make a dismissal unfair even if the employer applied otherwise fair selection criteria to the group.

² This is typically a group of employees identified as undertaking a similar type of work within a particular Department or Departments, or at a relevant location or locations and it is from this group that individuals may be selected for redundancy.

that it has genuinely applied its mind to the issue of who should be made redundant. (For example, a pool of one employee has been held to be unfair where there were other employees doing the same role).³

- e) Managers should consider whether there is an opportunity for 'bumping' ⁴or 'transferred redundancy.'
- f) Whilst an employee who is pregnant or on maternity leave or on adoption leave and whose post is at risk of redundancy can be included in a selection pool, such employees are afforded special protection under employment legislation and are automatically entitled to be offered redeployment to a suitable alternative vacancy where one exists.
- g) Managers must also avoid unlawfully discriminating against people with protected characteristics. As a reminder, the nine protected characteristics under equality legislation are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.⁵
- h) Recognised trade unions/staff association must be consulted about the selection criteria to be used by the Department, Board or Office. The chosen criteria should be relevant to the business, objective, measurable, justifiable and non-discriminatory and must be consistently applied. The Department, Board or Office may choose to weight some criteria more heavily than others. Examples of criteria include:
 - Attendance record
 - Disciplinary record
 - Skills and competence
 - Relevant qualifications and training
 - Knowledge (e.g. of the job, customers or the area/service)
 - Standard of work performance
 - Experience
 - Aptitude for work.

³ Halpin v Sandpiper Books Ltd UKEAT/0171/11/LA, Capita Harstshead Ltd v Byard UKEAT/0445/11

⁴ Bumping is where employee's role is made redundant, however, instead of employee A losing their job, they are redeployed to employee B's role (which is not at risk of redundancy) with the result that employee B is made redundant instead. Employee B is said to have been 'bumped' out of their role.

⁵ Detailed examples can be found at Annex B of this policy.

This list is not exhaustive. Departments, Boards or Offices must keep comprehensive records of their decision making in order that any decisions can be justified if challenged.

- i) Whether or not certain criteria are reasonable will depend on the circumstances of each case. Individual circumstances must be considered where "performance", "disciplinary record" and "absence record" are included as selection criteria to ensure that they are not used in a way which may be considered to be unfair or unlawfully discriminatory. Consideration should be given to the time period of the assessment (2-3 years recommended) and allowances made for anyone who may be new to a job or has been absent for part of that period (depending on the reason for the absence, for example, maternity leave, pregnancy related illness, paternity leave etc.) to ensure that selection scoring is applied fairly.
- j) If the scores are equal the employer may make a decision based on the length of service (within the PSC)⁶ as a deciding factor.
- k) Once selection has been made, the Accounting Officer will write to the employee, advising them that they have been selected for redundancy and advising them of their right to challenge the selection within 10 working days.

6. REDEPLOYMENT

- a) Redeployment for an employee who has more than 12 months' continuous service will be considered where a job ceases to exist or becomes surplus to requirements and has, therefore, been identified as being redundant.
- b) When individuals are placed in redeployment managers must ensure that they are not discriminating unlawfully against people with protected characteristics when suitable alternative employment is being sought (e.g. considering and making reasonable adjustments in the case of disabled people).
- c) Once an employee is identified as being in a redundant post and notified of their compulsory redundancy, the Department, Board or Office, in conjunction with OHR, will actively seek suitable alternative work for them within the Department, Board or

⁶ Where an employment group has been transferred into the PSC, any service accrued within that group, immediately prior to the transfer will be recognised as continuous service providing there is no break in service (as provided for in Schedule 5 of the Employment Act 2006).

Office and more widely within the PSC to try to avoid redundancy, unless the individual is a volunteer for redundancy. A three month redeployment period proceeding any formal notice of redundancy, will commence on the date that the effected employee(s) are notified either verbally or in writing of the potential redundancy situation. The redeployment period may be extended at the discretion of the Department, Board or Office.

- d) The affected employee's will be placed on a Redeployment Register held within the OHR and may choose to apply for vacancies prior to internal recruitment. The OHR Recruitment Team will circulate vacancies to employees on the Redeployment Register on a regular basis.
- e) While every effort will be made to identify alternative work within the Department, Board or Office under PSC terms and conditions, this cannot be guaranteed. In considering alternatives account will be taken of the individual's skills, levels of responsibility, seniority and career aspirations, and the Department, Board or Office will endeavor to identify a vacancy of comparable status, and terms and conditions of service⁷.
- f) Potential redeployees shall be required to provide an up-to-date CV, including the details of their qualifications, experience, expertise, transferable skills, employment interests, preferred places of work (if redeployed) and contact details. A template for a CV is attached at **Annex A**.
- g) The manager of potential redeployees must provide a reference and a copy of the current job description.
- h) Where a Department, Board or Office finds that it is not possible to redeploy an employee within its own Department, Board or Office, the manager will inform first the relevant OHR Business Partner and then the relevant trade union/s of this.
- i) Where alternative employment is identified as potentially suitable the employee will meet with the line manager of the vacancy to confirm the employee meets the essential criteria for the post. Where more than one employee is considered suitable then assessment for the post will be by formal interview (and skills test if appropriate) to match the best candidate to the vacancy. Written notes must be kept of the criteria used and feedback provided to candidates by the line manager.
- j) Prior to advertising vacancies externally, recruiting managers shall be required to consider those on the Redeployment Register first to identify any employees who may

⁷ It is not appropriate for new or bespoke posts to be created in these instances.

satisfy the essential criteria of the role, or who may do so with reasonable training or provision of suitable aids or adaptations to assist the redeployee where appropriate. Only if there is no suitable candidate on the Redeployment Register, having considered the information in the CV's with the job specification, may the recruiting manager advertise the post/s.

- k) Managers and Redeployees are encouraged to enter into consultation regarding offers of redeployment and associated trial periods with an open and flexible approach to optimise the opportunities available. This is also important when considering the termination of a trial period.
- l. If it is unclear whether an employee satisfies the essential selection criteria for selection for interview for redeployment, either with or without further training, the employee must be offered the opportunity for interview for redeployment regardless.
- m) Where an employee satisfies the essential selection criteria, he/she shall be offered the opportunity to be redeployed to the new position subject to a mutually agreed trial period, (normally the statutory four weeks). Prior to its commencement this trial period may be extended by mutual agreement, should this be considered practical and necessary, for training purposes only. Such an agreement shall be confirmed in writing prior to the start of the trial period specifying its duration and the terms and conditions that will apply after the end of that period.
- n) Offers of redeployment to employees under notice of compulsory redundancy will be made in writing, specifying any differences in terms and conditions which may result, the length of any trial period, and any other conditions. Employees in receipt of such an offer should indicate their acceptance, or their reasons for refusal, in writing within 10 working days of the date of the offer letter.
- o) During a redeployment trial period the new line manager will meet with the employee on a regular basis to review progress and identify where any additional training or support may be required.
- p) Following appropriate consultation with the employee and their trade union representative or colleague, trial periods may be terminated, by either party, at any time if the redeployment is not considered successful. Where an appointment is not confirmed, written reasons must be provided and the employee will return to their original role (within the three month redeployment window) until another redeployment opportunity becomes available, or until the end of the three month period, whichever is soonest.

- q) An employee who elects not to accept the alternative job during, or at the end of the trial period may lose their entitlement to a compulsory redundancy payment, if their written reasons are deemed unreasonable. However, if the trial period evidences that the post is unsuitable, they will still be considered redundant from the end date of the previous job and will be entitled to receive their compulsory redundancy payment.
- r) A redundant employee who wishes to leave their employment prior to the expected compulsory redundancy date but is under notice of compulsory redundancy will, subject to agreement with the Department, Board or Office, be permitted to leave on a mutually agreed date and that date shall become the effective termination date of compulsory redundancy for the purpose of calculating any entitlement to compulsory redundancy pay, and other entitlements such as annual leave. Requests to leave early will be considered sympathetically by the Department, Board or Office concerned.

7. PAY PROTECTION WHEN REDEPLOYED TO A LOWER GRADE/PAY BAND

- a) There may be occasions when there are opportunities to redeploy employees to a lower grade/pay band, however this is subject to there being a vacancy and the additional costs (pay protection) being acceptable to the Department concerned.
- b) Terms of the pay protection are as follows:
 - i. Employees will receive 3 years pay protection at the point of appointment. The pay protection enables the employee to retain the existing salary scale/spine points for the former grade/Pay Band.
 - i. after the 3 years employees will go to the maximum of the lower grade/Pay Band
 - ii. if employees are on pre-New Terms for New Starters and Promotions terms then it will be the maximum of the old scales
 - iii. redeployment to a lower grade will be restricted to one grade below existing grade (e.g. EO to AO)
- c) If an employee elects not to accept a role at a lower grade/pay band it will not affect their entitlement to a compulsory redundancy payment.

8. WHERE REDEPLOYMENT HAS BEEN UNSUCCESSFUL

- a) An employee who refuses, without good reason, an offer of suitable alternative employment during the three month redeployment period, and has not found further suitable employment within the redeployment period, will be treated as if he or she has resigned voluntarily and may not be entitled to a compulsory redundancy payment.

- b) Employees can appeal this decision to the Independent Appeal Panel, see section 11(iii).
- c) An employee's minimum notice period is that which is contained within their contract of employment.

9. ASSISTANCE WITH JOB SEEKING

- a) A Department, Board or Office will grant employees who are under notice of compulsory redundancy reasonable time off with pay to seek alternative work, or to arrange to attend training. Employees will be permitted reasonable use of office facilities such as telephone, email, internet access, photocopier etc. to assist with this process. Assistance to complete application forms and on job interview skills may also be provided by the Department, Board or Office, as appropriate or a member of staff from the OHR.
- b) **Note:** Job search workshops and advice about compiling a Curriculum Vita, completing job applications forms and interview technique can be accessed through the [Job Centre](#) (see **Annex A**).

10. ROLE OF THE OFFICE OF HUMAN RESOURCES

- a) The OHR will ensure that the Redeployment Register is up to date and will play a central role in supporting employees and managers in the effective operation of the Redeployment and Redundancy Policy and Procedure, including:
 - Supporting managers throughout the process, including the development of appropriate job descriptions and person specifications for vacancies as required and feedback regarding non-selection at interview;
 - Providing advice on the procedure to managers and employees;
 - Maintaining an overview of the scope for redeployment opportunities available to employees to ensure that the PSC meets its obligations to each potential redeployee;
 - The [Learning Education and Development Division](#) (LEaD) will offer face to face coaching through its network of coaches. Such support could be helpful for employees who are faced with making difficult decisions.
 - The Staff Welfare Service is available to offer support (Contact Tel: 687027).

11. REDUNDANCY PAYMENTS

- a) Redundancy costs are met by the Department, Board or Office and are determined in accordance with the Public Sector Compensation Scheme 2013 and Teachers Compensation Order 2014

12. APPEAL AGAINST DISMISSAL

- a) An employee who is given notice that their employment is to be terminated on the grounds of redundancy may appeal against this decision.
- b) Appeals must be submitted in writing within 10 working days of the employee being notified of the decision giving rise to the appeal.
- c) An appeal may be made to the Secretary of the PSC in respect of the following:
 - an offer of alternative employment being unsuitable;
 - a trial period being terminated unreasonably;
 - where it is claimed that an employee has forfeited the right to redundancy pay and/or
 - Fairness of the selection /non selection for redeployment.
- d) Appeals will be heard by the PSC Independent Appeal Panel in accordance with section 6.7.7 of the [PSC Disciplinary Procedures](#)

13. PRIVACY NOTICE

- a) The Office of Human Resources (OHR) and relevant Department, Board or Office Privacy Notices describe how personal information about an employee is collected and used during and after their working relationship within the Isle of Man Government and what legal basis there is for gathering and retaining that information in accordance with the Data Protection Act 2018 including the General Data Protection Regulation. For further details about the information collected and retention periods, please refer to the [Office of Human Resources' Privacy Notice](#) and the relevant Department, Board or Office's Privacy Notice which are incorporated in to this document by reference.
- b) Information generated and collated during the application of these procedures maybe disclosed (appropriately redacted) as part of a Subject Access Request.
- c) Courts and Tribunals may order disclosure of documents, irrespective of whether or not they are confidential. These will be redacted where permitted.

CURRICULUM VITAE

Full Name:

Home Address:

Telephone Number (s):

E-mail Address:

Personal Profile

(Areas of expertise, transferable skills, employment interests and preferred place(s) of work if redeployed)

Career History

(Summary of present and previous jobs and the main duties and responsibilities of each)

Education, Training and Qualifications

(Details of education and qualifications obtained, together with details of relevant training undertaken)

Hobbies and Personal Interests

AVOIDING DISCRIMINATION WHEN MAKING REDUNDANCY DECISIONS

This section looks at how managers can make sure they are not discriminating unlawfully in inviting volunteers for, or selecting employees for redundancy and in particular:

- Redundancy procedures and criteria
- Which jobs are in the selection pool?
- Deciding on the selection matrix and how to score it
 - Length of service
 - Absence record and working hours
 - Training and qualifications
- Avoiding unlawful discrimination against disabled people
- Maternity leave and suitable alternative employment
- Age and redundancy payments

A. Redundancy procedures and criteria

The procedures must avoid unlawfully discriminating against employees with protected characteristics. As a reminder, the nine protected characteristics under Equality legislation are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

For example, in the case of disabled people, failing to make reasonable adjustments, including adjustments to redundancy criteria and procedures, is a form of unlawful discrimination and also applies whether seeking volunteers or making compulsory redundancies. However, it is possible to make redundancy payments based on age. Further guidance can be found in the Public Sector Compensation Scheme 2013.

B. Which jobs are in the selection pool?

If all employees in a particular workplace or doing a particular job are not selected, managers must ensure that the selection pool does not discriminate unlawfully.

For example:

An organisation is facing budget cuts and decides to reduce the size of its marketing team. There are four people in the team (one man and three women) and the employer decides to put just the two people who work part-time, who are both women, into the pool for redundancy, believing that their earnings are less important to them than to those people who work full-time, who are more likely to be 'breadwinners'. Because women are more likely to work part-time, this approach will be indirectly discriminatory (having a worse impact on the two part-timers who are

women and on other women than it does on men) unless the employer can **objectively justify** what they have done. An approach which would be less likely to discriminate unlawfully would be to put everyone in the marketing department into the pool.

C. Deciding on the selection matrix and how to score it

To avoid risking possible discrimination, it is better to use a selection matrix containing a number of separate selection criteria rather than just one selection criterion. The recognised trade union should also be consulted and anyone who scores employees against the criteria must have been trained on how to avoid unlawful discrimination.

Length of Service

It is possible to use a length of service criterion for selecting employees for redundancy but only in certain circumstances, as it could indirectly discriminate on the following:

- Younger people who will not have built up as long an employment record
- Women, who often have more interrupted careers, or
- Disabled people, whose disability may have interrupted their career

Length of service should only be one of the factors, and may be objectively justified if it is used with the aim of, **for example**:

- Respecting loyalty and protecting older workers who may find it more difficult to re-enter employment, or
- Retaining experience, and it can be shown:
 - That length of service is a **proportionate** way of achieving an aim
 - Why the aim could not be achieved another way that does not disadvantage the selected workers to the same extent.

Absence record and working hours

If an employee's absence record or working hours are used to select for redundancy, care must be taken to avoid direct or indirect discrimination

For example:

- *If a woman is selected because of her absence on maternity leave or because of pregnancy-related illness, this will almost always be direct discrimination because of pregnancy or maternity.*
- *If an employee is selected because they have taken time off or because they work flexibly to care for a disabled relative, this risks being direct discrimination by association because of disability.*

- *If a disabled employee is selected because they have needed time off or because they work flexibly for a reason connected to their disability, this risks being **discrimination arising from disability** unless the employer can **objectively justify** using this criterion.*

Training and qualifications

The appropriateness of using qualifications to select employees for redundancy will vary according to the situation. If there are two employees working in similar roles, but one has an additional relevant qualification which adds to their ability to do the job, deciding to make the less well-qualified person redundant is unlikely to discriminate unlawfully.

It is also acceptable to say that an employee must have a particular qualification if that qualification is an essential requirement for the job that cannot be met by experience or further training.

However, if qualifications which are not especially relevant or the qualifications used are defined too narrowly without thinking through the consequences, unlawful discrimination can occur if the use of those qualifications would have a worse impact on employees who share a protected characteristic and it cannot be objectively justified

For example, choosing to make redundant just those employees with a qualification from a non-British university

D. Avoiding unlawful discrimination against disabled people

When considering disabled employees for redundancy, **reasonable adjustments** must be made to the criteria and process. If an employee in the pool is a disabled person and it was known or could reasonably be expected to have been known, they must not be treated unfavourably because of something connected to their disability unless it can be shown that this is **objectively justified**.

For example:

An employer knows that one of their employees is a disabled person. They select employees from the pool on the basis of absence over the past two years. The disabled person has taken a lot of time off work in relation to their disability (the time off being 'something connected with the disability'). If the employer cannot objectively justify this decision, it is likely to be discrimination arising from disability. A better approach would be for the employer to exclude disability-related absence from the absence which is used to score employees against that criterion this would probably also be a reasonable adjustment.

In addition, if an employee in the pool is a disabled person, the manager must make 'reasonable adjustments' if these are needed to remove barriers that employee would face which a non-disabled person would not face. This means considering what adjustments would remove those barriers, and if they are reasonable adjustments, they have to be made. This involves looking at each criteria in turn and how the disabled employee is scored against them, making reasonable adjustments to each of them where necessary.

Reasonable adjustments also means removing barriers for disabled employees during the process of redundancy, e.g. providing easy to read formats for someone with a learning disability.

E. Maternity leave and suitable alternative employment

Where during a redundancy exercise alternative jobs are available, managers should make sure these are offered to potentially redundant employees using criteria which do not unlawfully discriminate.

The situation is different if any of the potentially redundant employees is a woman on maternity leave.

In this situation, she does not have to go through selection against the criteria for filling a vacant post. Instead, she must be offered any suitable available job or any associated employer.

The offer must be of a new contract to come into effect as soon as the previous contract ends and must be such that:

- the work is suitable and appropriate for her to do, and
- the capacity, place of employment and other terms and conditions are not substantially less favourable than under the previous contract.

F. Adoption leave and suitable alternative employment

Where during a redundancy exercise alternative jobs are available, managers should make sure these are offered to potentially redundant employees using criteria which do not unlawfully discriminate.

The situation is different if any of the potentially redundant employees are on adoption leave. In this situation, they do not have to go through selection against the criteria for filling a vacant post. Instead, they must be offered any suitable available job or any associated employer.

The offer must be of a new contract to come into effect as soon as the previous contract ends and must be such that the work is suitable and appropriate them to do, and the capacity, place of employment and other terms and conditions are not substantially less favourable than under the previous contract.

G. Age and redundancy payments

Even though they are on the face of it indirect discrimination because of age (since younger employees are likely to lose out, since they will find it harder to build up the longer service), enhanced redundancy payments based on length of service are permitted without having to objectively justify this, so long as they are calculated in the same way as statutory redundancy payments.

H. Redeployment & redundancy procedures and race

With an increasingly diverse workforce, staff of different nationalities, ethnic or national origins will be employed. As a result, there may be employees for whom English is not their first language.

Therefore, managers should consider assistance to those whose English skills are limited and find difficulty in communicating in English in an emotive situation, therefore an employer may wish to provide an interpreter.

