**Individual Consultation**

1. **Time off to look for work**

The maximum amount the company is *obliged* to pay you is equivalent to two fifths (40%) of a normal week’s pay, even if you are absent for longer than that.

The company may ask to see the letter inviting you to attend an interview if you ask for time off for that reason. Your right to time off is not limited to attending interviews, however. You could, for example, ask for time off to arrange new training for yourself.

1. **In the individual consultation meeting**:
2. Ask for their reasons/validation for selection including:
   * scores
   * evidence
   * criteria

*Scores/evidence/criteria*

There is no *statutory* right to see scores, but it is likely to be seen as unreasonable (of the company) if the scores are not given to the employee affected, as the company needs to validate their decision and it means it is difficult for you to make an informed challenge. Scores that are based on more subjective criteria, usually need a greater degree of evidence to demonstrate their ‘reasonableness’.

* Ask for validation of how skills, knowledge and qualifications scores have been given
* Ask what the requirements are of the future roles
* Check that the Bradford scoring has been properly applied
* Ask for the details of the Safety Record scoring
* Ask for the details of the Quality scoring

Make sure you and the member have **prepared** all of the arguments – any relevant facts/data that the matrix scoring has not considered or you believe considered unfairly. *Just saying ‘no’ or you ‘disagree’ isn’t enough!*

1. Clarify pool selection

*The pool of employees*

As with the scores there are no *rights* to challenge the pool an employee is put into, but a Tribunal may consider it an unfair dismissal if he opportunity to challenge the pool allocated. So, if the employee is in the wrong pool, the score is *unlikely* to be a fair reflection of their skills/knowledge etc. against their peers.

Employers must ensure that the pool of employees to whom the selection criteria apply is fairly defined. If the wrong group is selected, the dismissals may be unfair even if the selection criteria used are fair.

Tribunals usually consider the following factors:

* job description
* the extent to which employees' jobs are interchangeable
* whether other employees are doing the same work on different shifts or in other parts of the business
* whether the union (or employee representatives) agreed the selection pool
* any evidence that suggests that a pool was a sham and defined purely for the purposes of weeding out a particular individual (such as a rep) or group of individuals

The way in which the pool is defined can make a significant difference to the employees who may be selected for redundancy. For example, if the pool is restricted to one particular shift or part of the business, then only those employees will be at risk. However, this may be unfair if there are other workers on a different shift doing the same job.

It is possible that all of one pool are considered for redundancy as the role is no longer required. However, that activity may be added to other retained positions. The company are able to do this although it does not mean it shouldn’t be challenged.

1. Ask what alternatives the company have offered

*Suitable alternative employment*:

* the employee’s skills and experience (i.e.do they have the right skills and experience for the new role?)
* the terms of the alternative job including: status, place of work, job duties, pay, hours and responsibility (i.e. how similar are these to the old role?).
* statutory right to a 4 week trial period

The trial period starts when the employee's employment under their old contract ends and lasts for four weeks. The trial period can only be extended beyond that if the employee needs to be retrained.

**If the company** gets an immediate sense that the employee is not right for the position and seeks to terminate the employee's employment during the trial period, the company can offer a different alternative post (with a new trial period) *or* can revert to the original redundancy.

In these circumstances, the employee is treated as having been dismissed on the grounds of redundancy from the date on which the original contract terminated – it is as if the trial period never happened. The same is true if it is the employee who is looking to terminate the relationship during the trial period.

**If the employee** decides during the trial period that they do not want to continue in the new job, and that they don’t think it is suitable alternative employment, or that they have other sound and justifiable reasons for declining to continue in employment, then they should communicate this to the company before the end of the trial period and stop work at the end of the trial period.

The employee’s entitlement to redundancy compensation will be calculated as if they had left employment before the trial period, but they will still be entitled to any wages earned during the trial period.

If the employee’s reasons for terminating during that trial period are unreasonable, and if the new position was a “suitable” alternative vacancy (as opposed to just a different role) then, as with the outright rejection of the offer of “suitable” alternative employment, the employee forfeits his or her right to a statutory redundancy payment.

The test for whether the refusal by the employee was unreasonable is set high, in other words, there is a heavy emphasis on the company demonstrating it was suitable and reasonable (Readman vs Devon PCT 2013)

*Bumping*

Bumping should also be considered by the company if there is the option e.g. allowing oversubscription from an at-risk pool or allowing a non-at-risk employee to take redundancy to create a vacancy. It is an opportunity to offer a ‘suitable, alternative employment’. Failure for the company to consider this may lead to an unfair dismissal claim

1. Make your own proposals for alternative work
2. Details of all money due (redundancy, holidays, bonus. etc.)
3. If applicable, state that you wish to appeal the decision
4. Clarify support (including such as outplacement centres, time off to seek work etc.)
5. **Ensure there is compliance with any agreements, processes and existing policies**

* Check any agreements have been complied with (e.g. service or bonus payments)
* Remember - the Redundancy Policy (and other relevant policies) are the company’s documents; make sure they are complying with *their* processes

1. **How will the dismissals be handled?**

There should be thought and care put into the process of how the employees will be handled through their last day at work. Aim to have the process kept as private and confidential as possible – it is the individual’s prerogative if they want what is happening to them to be ‘public’. Have support on hand – Occ Health, Security, Reps – whoever you feel would be helpful.

Try and avoid:

* + The ‘walk of shame’ - It can be a bad experience for those being made redundant to be called through their work area to go and attend their exit interview
  + The ‘departure lounge’ - Having a room that all those affected are called to sends a signal to everyone else – “we know where you’re going!”

1. **On the day of the exit interview / dismissal, ensure**:

* check when any redundancy pay, wages, holiday pay and other money due to you are paid
* job references from your company
* a letter stating the date of your redundancy
* a written statement showing how your redundancy pay has been calculated
* your P45 (to give a new company so you are taxed correctly)
* details of your pension (if applicable)
* state benefits
* remind the member that through Unite, financial advice and guidance can be offered

This will be a very difficult day for most people – some will be angry, some sad, some relieved and some still won’t believe it is happening. Be prepared for responding to your members with support.

1. ***Tribunal claims for unfair dismissal must be lodged within 3 months less one day (from date of dismissal)***