



Redundancy and discrimination

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Where we have been unable to save jobs, it is vital that employers do not discriminate when they are deciding on who to make redundant.?

Those employers that attempt to discriminate can expect GMB to firmly challenge their actions and not rest until it's put right.

If you are affected by redundancy, we strongly advise GMB members to contact their GMB rep as early as possible in the process.?

What reasons can your employer give for making redundancies??

GMB has produced [guidance here](#) about rights to consultation, notice periods, trade union involvement, etc. The guidance below looks at the right not be discriminated against in a redundancy situation.

You can only be made redundant as an employee if the job you're doing is no longer needed, for example if your employer is planning to:?

- change what the business or kind of work it does?
- change location?
- change how they work, for example use new machinery or technology?
- close part or all of the business/ area of work?

Once an employer has identified that they need to make people redundant for the reasons above they would then identify the job role or group of job roles which are at risk of redundancy.

You cannot be selected for redundancy or have a redundancy criteria that discriminates against you based on:

- age
- disability
- gender reassignment
- marriage or civil partnership status
- pregnancy or maternity leave
- race
- religion or belief
- sex? sexual orientation
- family related leave – for example parental, paternity or adoption leave
- being? a? trade union rep
- being? a? trade? union member
- if you've raised concerns about holiday entitlement or rest breaks with your manager under the working time regulations
- If you've raised concerns that you are not being paid the? National Minimum Wage
- Your redundancy is unfair if your employer chooses you because you've previously complained about discrimination. Making you redundant because you've complained about discrimination is called victimisation

What if you're the only one doing a job which is being ended? Or the only roles/individuals at risk of redundancy? are from any of the groups above such as? a? majority women? or? Black, Asian or Minority Ethnic? workers?

The employer must be clear what the objective justification is for making these specific workers redundant. It is possible that if they are only making women redundant then the decision could be discriminatory. You should seek advice from your union rep if you are at all concerned about this.?

Where redundancies will disproportionately affect any of the groups above the employer should consider carrying out an Equality Impact Assessment. If they are a public sector employer or providing a? public? service? they are required under the Public Sector Equality Duty to carry out an Equality Impact Assessment.? Again, GMB can advise our members about this.?

But how can employers select? people?

Your employer should use an as objective criteria as possible to choose who to make redundant? and their process should be transparent and accessible.? If GMB are recognised by your? employer? then your employer has an obligation to consult with GMB if more than 20 people are being made redundant or at risk of redundancy.

That consultation may involve discussion over selection criteria. You should have easy access to the selection? criteria? your employer is using. Your employer cannot directly discriminate against you because of the reasons set out above. But they should not also be indirectly discriminating against any of the groups above either; for example, disadvantaging people with children or caring responsibilities.?

Q:? What examples of selection criteria would the GMB challenge??



For example, if an employer was using sickness levels in their criteria we would expect sickness related to disability and pregnancy to be excluded. You should seek advice if this applies in your situation. We would also want to see criteria being clearly measurable, they should not be subjective and dependent on opinion or personalities. You should seek advice from GMB if you believe that criteria your employer is using is discriminatory.

Frequently Asked Questions on discrimination and redundancies

Q: My boss hasn't been happy with my performance at work but I have not been taken down any disciplinary or capability process and there is nothing in writing. I'm worried they will select me for redundancy. Can my employer make me redundant because of t

Your employer cannot use a redundancy situation to bypass their other disciplinary or capability processes.

Any issues with performance, where improvement is needed, your manager should start by supporting you by making clear what needs to improve, help you to achieve that where possible and give clear indication of expectations and timeline to achieve it.

Q: I'm on maternity leave, Can I be made redundant while I'm away on mat leave?

If you're made redundant during maternity leave, you should be kept fully involved and be invited to consultations. Your employer has to offer you alternative suitable roles and if you are on maternity leave and a suitable role comes up, you should be placed in that role before any other staff. You do not have to go into the interview.

If your employer tells other people at work who is being considered for redundancy much earlier than you, or does not include you in relevant consultation processes, this could be maternity discrimination and you might be able to challenge your redundancy.

Speak to your GMB rep as soon as possible if you are worried about maternity discrimination.

Q: Can I be made redundant while I'm off on long term sick?



Whilst it is not unlawful to make someone redundant whilst on long term sick GMB would strongly encourage employers to be cautious and ensure that they were not discriminating against workers on the basis of disability; for example, someone who was off on long term sick due to receiving cancer treatment.

Where possible your employer should wait until you return to work to start the redundancy consultation. If this is not possible, your employer should notify you of the consultation at the same time as your colleagues in work, ensure that meetings are at a place or time that is accessible for you or over the phone if that is easiest for you.

Your employer should consider ways of making the meetings accessible for you, for example taking short breaks.

Q: Can I be made redundant while I'm shielding or taking extra care socially distancing?

Employers can make you redundant whilst you are shielding, however this cannot be a reason to make an employee redundant.

During the pandemic GMB has been campaigning to ensure that workers health and safety is utmost and those who need to shield are not discriminated against. As with long term sickness employers must make every effort to 'meet' with you, but that should include safe ways for them to do so such as through online meeting platforms or phone calls.

This could be viewed as indirect discrimination if you are shielding due to for example disability or long-term health condition, age, pregnancy or caring responsibilities.

If you are over 70 or are considered high risk your employer should take extra steps to make sure you can work safely. (not sure if you are high risk or what that means – go to our [Coronavirus Hub](#))

Q: Can I be made redundant just because I'm on a part time contract?

Part-time workers are protected from being treated less favourably than equivalent full-time workers just because they're part time.

A part-time worker is someone who works fewer hours than a full-time worker.

There is no specific number of hours that makes someone full or part-time, but a full-time worker will usually work 35 hours or more a week.

Part-time workers should get the same treatment including for selection for promotion and transfer, or for redundancy.

Your employer must also make every effort to ensure you are included in any consultation process and ensure you are given the same information as full time workers.



As part time workers are disproportionately likely to be women workers too, employers should be extra conscientious of potential discrimination against part time workers.

If you are concerned that your employer maybe targeting part time worker, please contact your GMB as soon as possible.???

Q: Can I be made redundant because I have childcare or other caring responsibilities?

You should not be made redundant because you have childcare or other caring responsibilities and every effort should be made to ensure that any redundancy criteria does not indirectly discriminate against employees because of child-care issues - for example, flexibility.

Because women are still more likely than men to work less flexible hours, due to childcare or other caring responsibilities, employers should be aware that making the people with the least flexible hours redundant could be considered sex discrimination.

Q: I have recently reported sexual harassment to my employer. Now they are making redundancies and I am worried I will be targeted.

Your employer must not choose you for redundancy because you've previously complained about discrimination or harassment.

Making you redundant because you've complained about discrimination is called victimisation.

It could also be victimisation if you have been selected for redundancy because you are a member of a trade union or a trade union rep.

GMB takes any incident of victimisation very seriously, whatever the reason, however it is worth noting that proving victimisation has taken place can be extremely difficult. Therefore, if you believe you have or are at risk of being victimised during a redundancy process, please contact your GMB rep as soon as possible.

Q: Due to my disability I'm finding it difficult to access information or to understand the redundancy process. Do I have the right to ask for extra support? I'm worried about asking for 'special treatment'.

Your employer should ensure that the redundancy process is accessible, and information is in a format that is clear, understandable and free of jargon.



This might include additional reminders for some workers, additional one to ones and having materials in different formats, large print or braille.

The responsibility is on the employer to ensure that the worker has fully understood and has been able to fully take part in the consultation. Especially where someone has a disability, the employer should make every effort to ensure that individual disabled workers needs have been met and any communication barriers have been removed.

If you believe that you have been discriminated against because of any of the above please contact your GMB rep or [regional office](#).

You have the right to be accompanied by your GMB rep as part of redundancy process or to seek advice from your union at any time.

