



Bulletin 141

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Length of service can be a relevant factor when selecting for redundancy

The Court of Appeal has made a declaration that businesses can take employees' length of service into consideration when deciding who should be made redundant.

In the case of *Rolls Royce plc -v- Unite the Union*, the judges had to clarify the fate of several hundred Rolls Royce workers facing redundancy. It was decided that whilst using length of service in a redundancy selection matrix constituted indirect discrimination in that it gave older employees an advantage over younger colleagues, it was objectively justified in this case and therefore lawful. The legitimate aim the Court of Appeal was willing to recognise was the maintenance of a stable workforce during a redundancy exercise and rewarding loyalty.

UNITE, the trade union that represented Rolls Royce workers, argued that older employees deserved this additional protection because if made redundant, they were less likely to find new jobs in the current market.

Practical Tip

Notwithstanding this decision, it is important to remember that businesses should not select for redundancy on the basis of length of service alone and that a wider selection matrix based on a number of objectively verifiable criteria will be required.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Employment Law issues, please contact: Paul Chamberlain in Manchester on 0161 836 8864, Andrew Cross in Liverpool on 0151 600 3062 or Kevin James in Preston on 01772 229847.

If you no longer wish to receive the bulletin please let us know by return e-mail to helen.calvert@brabnerscs.com

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