

Handling Redundancy in Agriculture

We are often consulted by callers to the NFUS Legal Helpline enquiring about redundancy and how to approach it.

Our experience is that this is a very sensitive area for those involved in the agricultural industry. This is because you may only have one employee or you may be the sole employee of your employer.

The matter is further complicated if (as is common) there is tied accommodation as part of the employee's contract.

The actual procedure is relatively straightforward in theory. The practical reality is often more difficult.

What you must do before you use the 'r' word is to actually take the time to consider if you do need to make someone redundant. That is crucial as it is step which once started will sour relationships and damage trust between the employer and employee.

Once you have decided you do require to make an employee redundant there is a formal process which you must follow.

If you do not follow the process you will unfairly dismiss the employee automatically. That means that if you are faced with a claim from the employee you will be on the back foot in seeking to argue that you should not pay more money to them.

What you must do is communicate with all the employees who could be made redundant in writing. This can be a letter or email or indeed fax. This should ask the employee to meet with you to discuss the possibility of their redundancy. Crucially there should have been no final decision made by the employer prior to or at that meeting. It should be a face to face meeting and it may be sensible to have independent witnesses to it. Easy? Not really as it often means sitting round a table in the tied cottage or your own farm kitchen talking to someone who has loyally and faithfully worked with you for years and telling them they are likely to be no longer required. We often find it is easier to have someone else deal with this process as it takes away the emotive element to it.

When you have had the meeting you must decide if the employee should be made redundant and therefore dismissed. It maybe the employee has made suggestions which can avoid redundancy or is content that for payment of an enhanced amount they will agree to it. The point is, until you have heard their side of the story you cannot make any decision.

When you have decided you should have a further meeting to intimate your decision. Follow this up in writing confirming your decision.

You must also allow the right of appeal against your decision which maybe difficult to do without hearing the matter again yourself. We are often asked how this aspect can be dealt with. If you are a member of the NFU there maybe help at hand through your local branch which may be able to offer someone to hear any appeal by the employee or advise you of someone in your area who can. You may have a neighbouring farmer or fellow contractor who has experience of redundancy.

There is much to be said for being generous to employees who, in being made redundant, also lose their home. This is often the most sensitive issue in these situations. If you are an employer we advise you think this through carefully before the attending the first meeting. If you are an employee find out what the housing situation is locally before you attend the first meeting.

Communication in this difficult area is key to ensuring both employer and employee deal with the situation properly. This is a general commentary and should not be taken as advice and used in any specific case without seeking legal advice.

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For legal advice relating to redundancy or any other area of employment law, please contact Douglas Jaap in our Litigation Department on 0131 225 7541 or email douglas.jaap@gillespiemacandrew.co.uk

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