

Calls to the Association's legal helpline continue to grow. Employment barrister Jonathan Waters considers some common problems concerning greenkeepers' employment.

KNOW YOUR RIGHTS

I am an assistant greenkeeper. I have heard on the grapevine that the committee is going to make an assistant greenkeeper redundant. What is redundancy and if I am chosen what procedure should my employer follow prior to making me redundant?

Unfortunately, as a consequence of the recession, this is a common enquiry. The term "redundancy" is often misunderstood – both by employers and employees. In law, redundancy has a specific legal meaning. It basically occurs when either the golf club or the place at which the greenkeeper works closes down or, as is more common, there is less work available for the greenkeeper to do.

A greenkeeper who has been employed for in excess of two continuous years would be entitled to a statutory redundancy payment based upon his length of service, age and gross weekly salary. The statutory redundancy payment is calculated as follows: a) one and a half week's pay for each year of employment which consists wholly of weeks in which

the greenkeeper was not below the age of 41;

b) one week's pay for each year of employment (not falling within (a) which consists wholly of weeks in which the greenkeeper was not below the age of 22; and c) half a week's pay for each such year of employment not falling within either of the above.

The maximum amount of a week's pay is £205.00. The redundancy payment is tax free.

The greenkeeper would also be entitled to notice money calculated on the basis of one week's notice for each complete year of service. If, however, the contract provides for more notice money than this then it is the greater amount that must be provided.

Making someone redundant, an employer must follow a full and proper procedure. This usually involves consultation with all greenkeepers who are likely candidates for redundancy, consideration of alternatives to redundancy (such as an agreed reduction in hours or salary) and consideration of alternative employment – if available.

If the greenkeeper is one of a number who may be selected for example, the employer needs to dismiss one of three assistant greenkeepers, then the employer must have a legitimate reason for selecting that particular employee. Traditionally, this has been based on the principle of "last in, first out" however, in recent years, there has been an increased tendency to follow a points criteria. This is based on marking each employee on factors such as attendance, timekeeping, sickness record, disciplinary record, and qualifications. The greenkeeper with the least amount of points is the one who will be selected for redundancy.

If a greenkeeper has been employed for more than two years he will be protected from unfair dismissal. If he considers that there is either not a true redundancy situation or that the procedure followed is defective then he may make a complaint for compensation for unfair dismissal at an Industrial Tribunal within three months of the date of dismissal.

I recently left my last club to take up a new position as a Head Greenkeeper at a rival club. My new employers have requested a reference from my old employers but they have refused to provide one. Are they entitled to do this?

Unfortunately, the answer to the question is yes. With the exception of the financial services industry, a former employer is not legally obliged to provide an ex-employee with a reference. The law does, however, provide that if a reference is provided then it must be truthful and accurate. If it is not and the greenkeeper is unable to obtain a new job as a result then he may be able to sue the former employer for damages to compensate him for any losses sustained.

■ The information contained in this article is for general guidance only. In the event of a member having any legal problem then it is extremely important that Hambro Legal Protection Ltd be contacted without delay. Hambro Legal Protection Ltd's telephone number is 01206 867775 and the service is available 24 hours a day, 365 days a year.

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