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REDUNDANCY SELECTION

In a redundancy selection process, how do you balance (1) objective factors, (2) the outcome of HR selection exercises, and (3) management assessment?

Must you put everyone at risk if your objective test clearly identifies who should go?

SELECTION CRITERIA

How do you balance:

- (1) Objective factors
 - (2) The outcome of HR selection exercises, and
 - (3) Management assessment?
- 

WHICH CRITERIA DO YOU USE AND HOW DO YOU WEIGH THEM?

“Many amateur golfers think they need expensive clubs. But it’s the swing that matters, not the club. Give Tiger Woods a set of cheap clubs and he’ll still destroy you.”

Jason Fried and David Heinemeier Hansson

“Cycling is the new golf.”

Bob Barber, manager of the Olympic Velodrome

IN THE BEGINNING THERE WAS.....

Williams v Compare Maxam

*“Whether or not an agreement as to the criteria to be adopted has been agreed with the union, the employer will seek to establish criteria for selection which so far as possible do not depend **solely** upon the opinion of the person making the selection but can be objectively checked against things such as attendance record, efficiency at the job, experience, or length of service.”*

PURELY OBJECTIVE CRITERIA, E.G. ATTENDANCE AND LENGTH OF SERVICE

- Discrimination
 - Age
 - Disability
 - Gender
 - Requires fine judgements about adjustments and dangers of over-compensation
 - Objectively justifiable as part of a mix (*Rolls Royce v Unite*)
- Errors in records
- End up with the wrong people for needs of employer going forward

MANAGEMENT ASSESSMENT

- Will get the “right” people
- Legally riskier (fairness and discrimination)
- Better if moderated
- BUT not all criteria need to be objectively justifiable *“in the real world employers making tough decisions need sometimes to deploy criteria which call for the application of personal judgement and a degree of subjectivity.” (Swinburne v Simpson)*
- Greater subjectivity requires more consultation (*Graham v ABF*);
- And diligent application
 - Reasoned scoring (*E-Zec Medical Transport Services v Gregory*)
 - Backed up with appraisals

MEASURING THE SUBJECTIVE – HR ASSESSMENT

Mental Health Care (UK Limited v Biluan)

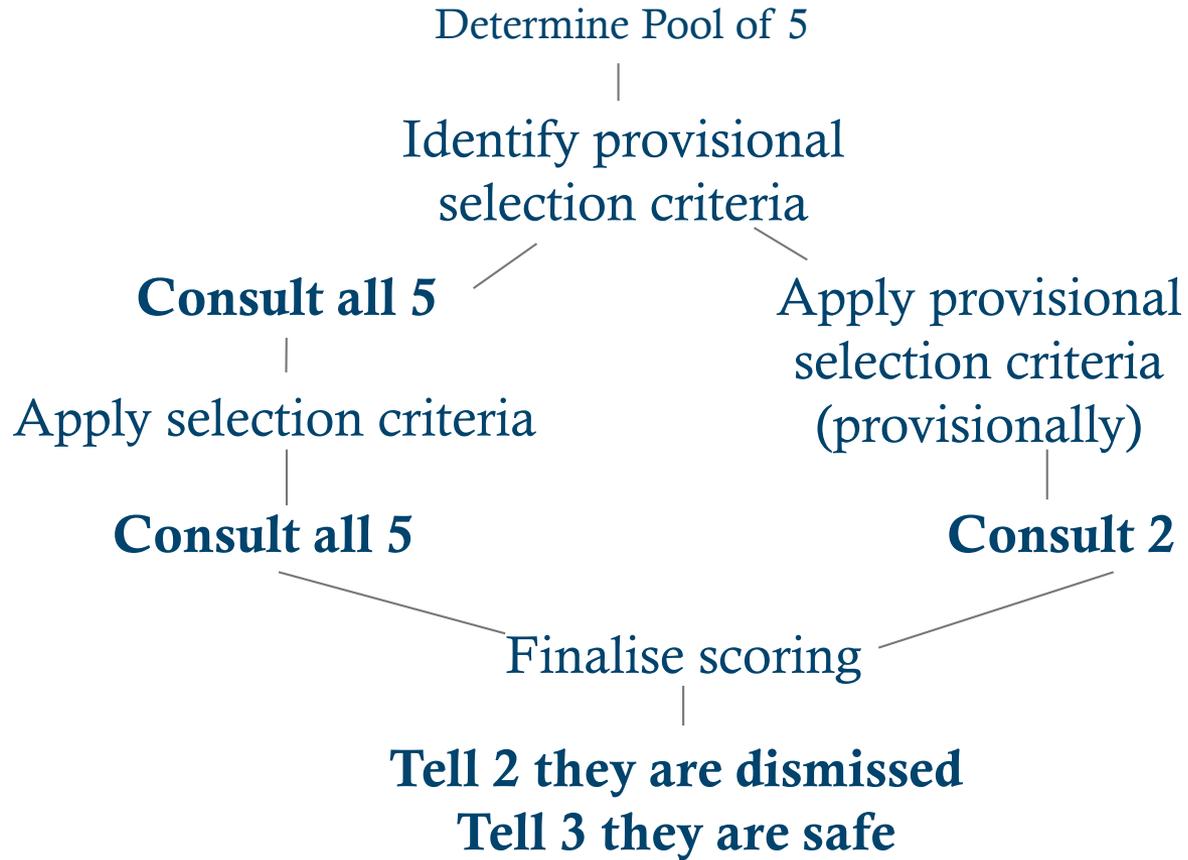
- Were no reliable records
- Assessment centre used (written test, interview, group discussions)
- *“very good workers lost”*
- Results were *“very surprising”* but felt to arise from *“robust”* process
- Over-reliance on process, held to be unfair

SO, WHAT IS THE SWING?

The answers are in *Biluan*

- There is a lot of leeway (unlike golf)
 - Use all the clubs
 - Use evidence from past performance
- If the ball looks like it is ending up in the wrong place, something has gone wrong

WHOM SHOULD BE PUT AT RISK?



RISKS OF TRUNCATING THE PROCESS

- Consultation seems a sham/pointless as those consulted are those that are dismissed...
- ...because decision is usually predetermined
- If good challenges made in consultation, theoretically employer would have to involve others who had thought they were safe
- *Grant v BSS Group Plc*

ADVANTAGES OF SHORTENING THE PROCESS

Shorter, narrower process are:

- Less unsettling to the rest of staff (whom employer needs more than ever)
- To managers: and
- Means there is less to go wrong

Errors can be corrected on appeal

There's always *Polkey!*

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