

JOHN TAYLOR MULTI ACADEMY TRUST



Schools Redundancy and Reorganisation Policy

JTMAT has adopted the SCC 2015 policy and will use all associated documents related to this policy

**Policy owner:
COO**

Barbara Mahoney, JTMAT

Implementation date: September 2016
Reviewed on: July 2020
Next review date: September 2022

1. INTRODUCTION

John Taylor MAT is committed to ensuring, as far as is reasonably possible, a secure and stable working environment through the retention of its finest asset, the employees. Through positive workforce planning, schools will endeavour to maintain the efficiency and effectiveness of service provision in order to safeguard the current and future employment of its employees.

However, it is recognised that, circumstances may arise that will affect employees within the organisation and some employees may be placed 'at risk' of redundancy.

2. SCOPE

This policy applies to all JTMAT employees.

Regulations made under the Education Act 2002 give Governing Bodies powers to delegate their power to dismiss to Head(s) of Schools if they so wish. If the Governing Body wish to delegate to the Head of School their power to dismiss [any position other than that of Head of School], then this should be clear at the start of the process. The Head of School must ensure that they remain impartial throughout the process. However any appeal would still remain with the Governors Appeals Committee.

3. REDUNDANCY DEFINITIONS

Employees who have at least 2 years continuous service with any local authority or employer covered by the Redundancy Payments (Continuity of Employment in Local Government)(Modification) Order 1999 (as amended) are entitled to a redundancy payment. If an employee unreasonably rejects an offer of suitable alternative employment they will forfeit their right to a redundancy payment. A redundancy payment will not be paid where, before the end of their employment, the redundant employee receives an offer of employment with the local authority or with a Modification Order employer and accepts and starts the new job within 4 weeks of the date of the redundancy.

The Employment Rights Act 1996 defines a redundancy situation as one where:

The Employer has:

- (a) ceased, or intends to cease to carry on the business for the purposes of which the employee was employed, either generally or at the place where the employee was employed; or
- (b) the requirements of the business for employees to carry out work of a particular kind, either generally or at the place where the employee was employed, have ceased or diminished or are expected to cease or diminish.

Under section 197 of the Employment Rights Act 1996, the non-renewal of a fixed term contract is a dismissal in law. Therefore, employees with over 2 years' service whose fixed-term contract is not renewed may be entitled to a redundancy payment.

Advice should also be sought in regard to any longstanding casual contracts.

4. CONSULTATION

Where John Taylor MAT is contemplating making changes to its employee establishment that may lead to a redundancy situation, there should be meaningful consultation [refer to Paragraph 3 of Guidance Document] on any proposals with individual employees affected by the proposal and with the appropriate recognised trade unions. Consultation will involve considering ways of:

- avoiding proposed redundancies;
- reducing the numbers to be made redundant;
- mitigating the consequences of any redundancies.
- undertaking selection
- developing any ringfencing arrangements

Consultation, must begin 'in good time' and in any event :

- (a) Consultation will be meaningful regardless of the number of employees affected.
- (b) Consultation must begin at least **30 days**, before the first dismissal takes effect where the employer is proposing to make redundant 20 to 99 employees period of 90 days or less.
- (c) Consultation must begin at least **45 days**, before the first dismissal takes effect where the employer is proposing to make redundant 100 or more employees within a period of 90 days or less.

JTMAT will seek advice from its HR provider as to what Consultation period applies at the time when you are considering making redundancies.

Consultation must be completed before issuing redundancy notices to employees.

5. DISCLOSURE OF INFORMATION

There is a statutory responsibility for employers under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULCRA) to disclose prescribed information to appropriate representatives. Therefore, JTMAT **MUST** provide, through a Business Case [Appendix 1], the following information. The Business Case [or S188 as appropriate] is to be provided to the appropriate recognised Trade Unions [Branch Secretaries] and staff during or prior to the consultation period:

- the reasons for the proposed redundancy;
- the total number of employees affected by the proposals, including a pre and post restructure organisation chart with names, grades and job titles;
- the number and description of roles at risk and therefore employees who may be made redundant (either voluntary or compulsory);
- Job descriptions [old & new, where appropriate]
- proposed method of selection for redundancy;
- proposed method of how the redundancies will be carried out including the period over which redundancies are to take effect;
- proposed method of calculating redundancy pay;
- the number of agency workers working for the school, and
- the type of work they are doing.

Under the Trade Union and Labour Relations (Consolidation) Act 1992, Part IV, Chapter II, the School is responsible for notification of the Insolvency Service, within the Redundancy Payments Service (RPS), if it proposes to make 20 or more workers redundant at one establishment over a period of 90 days or less.

In such circumstances the School must inform the authority who will issue a formal notification [HR1 Form]. The notification to the Secretary of State must be received by RPS before redundancy notices are issued and at least 30 or 90 days before the first termination date. Timescales will depend upon the number of employees involved.

During meaningful consultation, the School must consider any representation or counter proposal submitted in writing by affected employees or the appropriate recognised Trade Unions and will reply, within a reasonable period, to any submissions received ahead of the commencement of the selection process. Please contact your HR provider for specific advice.

6. DISPLACEMENT OF EMPLOYEES

Where the proposals involve the displacement of employees the School, in consultation with the appropriate recognised Trade Unions, will seek to avoid compulsory redundancies by considering the adoption of the following measures where practically possible, bearing in mind service constraints, legislation, and the need to maintain services:

- natural wastage
- restrictions on recruitment to posts
- reducing or eliminating other payments, including overtime
- reducing hours across affected groups of staff to minimise potential redundancies, if they volunteer following appropriate consultation.
- non-renewal of fixed term and temporary contracts at the point of expiry, for example where an individual has been brought in specifically to complete particular tasks or to cover for a peak in demand.
- seeking applications for early retirement and/or voluntary redundancy in accordance with the Council policy
- redeployment in accordance with the Council redeployment policy, with appropriate training if necessary and agreed trial periods.
- Transfer of employee to other suitable work within the school (with retraining where possible).

7. VOLUNTARY REDUNDANCY/RETIREMENT

In addition to the above, the Governing Body will consider on a case by case basis requests or may seek volunteers across the full staff group to opt for early/flexible retirement, and/or for voluntary redundancy under the schemes operated at that time. In these instances, whilst the Governing Body will be prepared to consider all requests, it reserves the right to determine release, taking into account current and future operational requirements.

An agreed selection exercise will be conducted, if required, for example if there are more volunteers than roles which can be vacated.

8. REDEPLOYMENT

Any employee who is “at risk” of redundancy will be subject to the provisions for redeployment in place corporately at the time. Legally there is an obligation and responsibility to consider suitable alternative employment for redeployees and conversely, redeployees should show reasonableness in rejecting or accepting any suitable alternative employment.

The School must consider any other redeployment opportunities within their own school or Federation which may be suitable for the ‘at risk’ employee, and, in addition, should seek redeployment opportunities outside of the school where possible, particularly within nearby/cluster schools within reasonable travel distance.

The School must provide relevant retraining and redeployment of existing employees into appropriate vacancies where possible to maximise opportunities and minimise redundancies. Appropriate funding will be the responsibility of the employee’s originating school. In this event, the School will retain the right to determine the suitability of candidates for retraining and redeployment taking into account all skills possessed by the employees.

Where appropriate salary protection should be considered .

9. THE GOVERNORS COMMITTEE STRUCTURE

Governors must nominate two separate committees (including a Chair for each) as follows:

- a selection committee to consider a staffing structure and identify staff for displacement;
- an appeals committee to consider any appeals.

Where the Head of School, Governing Body and/or Selection Committee at a school judge that there is a significant possibility of staffing reductions, they should ensure that the appropriate committees are formed in advance of the process.

No Governor may be a member of both committees and there should be no discussion between members of the two committees about any decisions under consideration. There should also be no discussion with any other individuals apart from other members of the selection or appeals committee.

The Head of School or other nominated senior member of staff in school can provide evidence and information to each committee in an ‘expert advisor’ capacity. The Head of School may be present at both committees and make a contribution to the process, but is not part of the decision making.

JTMAT has a statutory entitlement to send a representative to all proceedings relating to dismissals. Any advice offered must be considered by the Governing Body when reaching a decision.

It could be unethical for staff Governors to be appointed as a member of either committee. Governors should also consider whether it is appropriate to appoint parent governors to either committee.

The Selection Committee must consist of at least three governors and the appeals committee must have at least as many members as the Selection Committee. It

is strongly advised that you seek advice and guidance from your HR provider throughout any Redundancy process.

This policy should be read in conjunction with the Schools Redundancy and Reorganisation Guidance Document which provides further information on the process which sits beneath this Redundancy & Reorganisation Policy.

10. SELECTION CRITERIA FOR COMPULSORY REDUNDANCY

Where it is shown that fewer employees are required in a particular workgroup and changes cannot be achieved by voluntary measures, the Employer [school] will consult with recognised trade unions on the method of selection and can either use selection criteria agreed or alternatively selection by competitive assessment, for example, a formal interview process may be used as an appropriate method of redundancy selection.

When utilising any selection method this will be carried out by the selection committee with advice being sought from the Head of School or their representative. The application of the criteria must be lawful, objective, fair, reasonable and evidence based [anonymised where necessary] and be applied to all affected employees.

As part of the consultation the recognised trades unions will be consulted on the process to:

- Establish the pool of employees from which selection will be made;
- Establish the relevant selection method, inclusive of criteria and weighting were appropriate. .

It should be noted that employees should not be selected for redundancy purely on the fact that they work under a fixed term contract, unless this can be objectively justified.

The Governing Body or Head of School if nominated will notify those employees selected for redundancy individually and face to face, then confirm in writing.

11. EMPLOYEE APPEALS

An employee selected for redundancy will have the right of appeal against dismissal.

The appeal should be submitted in writing to the Governors Appeals Committee within 10 working days following receipt of written confirmation of the notice of redundancy and the grounds of appeal must be stated.

The Appeals Committee will consider the case, and the employee has the right to be accompanied at the hearing by a trade union or workplace colleague of their choice.

12. RE-ENGAGEMENT FOLLOWING REDUNDANCY

Former employees who wish to apply for future vacancies with JTMAT will be considered in open competition with other applicants in line with normal recruitment practices.

If employees are re-engaged within 4 weeks, continuity of service will not be broken and employees would be required to return any redundancy pay received. If redundancy pay is not paid back and the employee is made redundant again at a later date, redundancy pay will only be for the remaining service period following re-engagement.

13.DATA PROTECTION

The organisation will comply with the provisions of the Data Protection Act 2018. Employee data will be processed by the organisation in accordance with the principles of that legislation, as necessary for the performance of the employee's contract of employment and/or the conduct of the organisation's business. The organisation will ensure that personal information about an employee, including information in personnel files, is securely retained.