



The LETTA Trust

Organisational Change Procedures Inc Redundancy

Approved & adopted on:	Summer 2023	To be reviewed by:	Summer 2024
Reviewed by:	TB Resources Committee	Signed:	

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1. General scope of the procedure

The LETTA Trust has a responsibility to ensure appropriate use of resources and ongoing financial viability so that we maintain and improve the quality of education in our schools. We seek to fulfill our aims by prudent forward planning and also recognise that unforeseen circumstances can arise that necessitate organisational restructuring.

This procedure is applied whenever there is a proposal to make reductions in permanent teaching or support staff engaged under contracts of employment within our schools including those employed on successive fixed term (or temporary) contracts extending over 2 years without a break in service. The procedure does not cover casual or supply staff.

Where employees are subject to the protections of TUPE and, where assimilation or selection to a new post leads to a change in contractual terms and conditions, it could result in the loss of TUPE protection. Where changes could affect terms protected under TUPE the consultation will include this specific element.

This procedure has been written to meet the requirements for consultation as set out in employment law and ACAS guidance.

2. Aims of the procedure

School requirements for staff vary periodically and when this happens leaders may need to consider changes in their staffing structure. This may arise as a result of:

- A requirement for cost savings
- Curriculum requirements
- The introduction of new legislation or government guidelines
- Recommendations following teaching and learning reviews or Ofsted inspection
- Development of partnership arrangements with other schools
- New technology or new ways of working
- Contraction or expansion of the school due to rising or falling numbers on roll

Given the variation in organisational reviews, this procedure is intended to provide a flexible framework for us to follow in differing organisational change situations. We aim to ensure that the process is carried out as swiftly as possible so that continuity of education is maintained and to limit the negative impact the change may have on staff members. The aim throughout is to ensure that staff are treated reasonably and fairly.

The Trust is committed to the principle of avoiding or minimising compulsory redundancies and, wherever feasible, ensuring that alternatives such as natural wastage and/or redeployment are used to manage reductions. Re-training of staff will also be considered where appropriate.

This procedure provides guidance on restructuring a team or a whole school and includes:

- Reductions in the total number of staff
- Adjustments to staffing levels in different leadership and/or curriculum areas
- Adjustments to working and/or contract hours of staff
- A combination of these measures

This procedure is intended:

- To take account of the school's statutory duty to provide for the educational needs of all pupils
- To minimise the negative impact of situations involving re-organisations and or staff reductions
- To ensure staff reductions are reached fairly and in accordance with employment law and statutory entitlements
- To ensure that consultation with staff and the trade unions is conducted in line with ACAS guidance

3. Equal opportunities considerations

There are equality, diversity and inclusion considerations when any employment procedure is applied. Application of the Organisational Change Procedure may have particular implications for staff with a particular characteristic.

Headteachers will ensure that they assess the situation across the group of staff likely to be affected by the process before they embark upon any action relating to staff reductions. This could be done by undertaking an Equality Analysis for example so long as no individuals can be identified in the analysis.

Absence due to maternity, adoption or shared parental leave

When establishing criteria which may lead to the compulsory displacement of staff, we will seek HR advice prior to finalising staffing proposals when an employee who may be affected is absent on maternity, adoption or shared parental leave. Female staff on maternity leave have a priority right to be offered a suitable alternative vacancy without having to undergo a competitive selection process. This entitlement also extends to staff who are absent due to a period of statutory adoption leave and shared parental leave.

Colleagues with a disability

When colleagues with a disability are amongst the affected staff, we will seek HR advice at an early stage to ensure compliance with the Equality Act. Reasonable adjustments will be considered for disabled colleagues in the event of a changed role.

Trade union representatives

If the proposed structure indicates that there is a possibility that one or more school representatives may be displaced, the Headteacher will first consult the Branch or Regional Official of the union(s) concerned.

4. The procedure (prior to consultation)

The Headteacher will discuss the possible need for reorganisation with the Trust's CEO, HR Manager and/or CFO as appropriate. The Headteacher will then complete a Business Case with proposals for change, including reduction in staffing costs. The Business Case will include comments from the Trust's HR Manager, CFO and CEO before being submitted to the Trust Board Resources Committee for consideration and discussion. The Resources Committee will then make a recommendation for approval to the Trust Board.

Once the proposals are approved in principle, the Resources Committee will agree an:

- Organisational Change Panel (usually consisting of the Headteacher, HR Manager and a member of the Local Governing Board or Trust Board). The Organisational Change Panel is responsible for consulting with staff and trade unions on methods for making reductions and for selecting posts for redundancy following full consultation. Any disagreement between members of the Organisational Change Panel will be discussed with the CEO.
- Appeals Panel (comprising of at least 2 members from the LGB and Trust Board - previously uninvolved)

At this point, to avoid derailing industrial relations, the Headteacher can informally tell trade unions of the proposed restructure before any written documentation is sent.

Any member of staff who leaves the Trust by reason of redundancy or early retirement and receives a severance payment is required to have a gap before re-employment with the school. The gap should be at least 3 months after the date of termination. This does not prevent them from working for a different school in the Trust during this period.

5. Timescales

The timescale for the restructure process depends on the number of affected staff and is followed by a contractual notice period. For each change we will generate an indicative timeline.

- It is recommended that whether or not a restructure involves redundancies, the consultation process will be 30 calendar days. This is to ensure that the consultation is meaningful, and sufficient time is given to consider and manage the proposed changes
- However, where fewer than 20 employees are affected, the consultation process may be closed earlier than 30 days by mutual agreement, in order to minimise disruption and enable the school to meet changing needs more rapidly
- Where more than 99 employees are affected, a minimum consultation period of 45 calendar days applies
- Where 20 or more employees are involved and there is a possibility of redundancies, a s.188 formal notification must also be issued

6. Proposals and consultation

Informal consultation

Trade unions and staff will be informed as early as possible that a re-organisation is being considered and informal consultation initiated.

Before staff are informed of any proposals, we will write to recognised trade unions inviting them to attend a meeting to discuss the proposals. The invitation will include details of the proposals.

Following the meeting with trade unions, there will be a meeting with staff and their representatives to explain the proposals (this can be immediately after the first meeting with trade unions). Depending on circumstances, the Headteacher may choose to brief colleagues who are directly affected by the proposals first.

Formal consultation

Following the recommendation made by the Resources Committee, the school's Organisational Change Panel will begin formal consultation with staff and trade unions. After the initial meeting with the trade unions, formal proposals will be put to the staff and trade unions, by writing to every member of staff that is affected, either directly or indirectly and inviting them to a group consultation meeting to discuss these. The consultation should involve all affected staff and therefore it is important to make arrangements for consulting staff who are away from the workplace e.g. on maternity/paternity leave, long term sickness or secondments. A virtual meeting is an option for these staff members.

Information will be provided at the meeting which includes:

- The reasons for the reorganisation
- The number and description of staffs at risk
- Current and proposed structures (if parts of the structure remain unchanged this should be indicated at the earliest possible stage and this part of the structure excluded from the reorganisation process)
- Steps that will be taken as a means of trying to avoid compulsory redundancies, e.g. voluntary redundancy, early retirement, bumped redundancies, natural wastage, alternative internal redeployment, reductions in hours, reductions in agency staff
- How redundancy pay will be calculated
- The proposed method for selecting for compulsory redundancies, in the event that this is necessary
- Current and proposed job descriptions, with indicative grades
- Timetable
- Draft assimilation list
- The Trust's Organisational Change Procedure
- Equality analysis if applicable
- Any other relevant information

A final written document should be sent to the trade unions and relevant staff as soon as is reasonably practical and where possible at least 3 months before the first dismissal is envisaged to take place. Voluntary redundancies may still take place prior to this, providing all parties agree.

Invitations may be sought at this point for volunteers for redundancy. The school's Organisational Change Panel will consider curriculum requirements when deciding whether to accept an application for voluntary redundancy.

Headteachers will be aware that employees may seek employment elsewhere during the consultation process and should update proposals to take account of posts which may become vacant as a result of employee resignations.

Where sufficient staffing reductions cannot be met through the above methods, the school's Organisational Change Panel will be responsible for identifying the numbers and types of posts for compulsory redundancy and will consult with staff and trade unions on the proposed selection criteria for making compulsory redundancies.

The proposed selection criteria must be objective, transparent, measurable, relevant, fair and non-discriminatory and should be consistently applied. The criteria will relate to the skills, qualifications or experience required for the new role/s.

Assimilation and ring fencing

In determining the relevant pool of staff for assimilation purposes, staff acting up or seconded will be treated on the basis of their **substantive** post. Temporary staff or permanent staff covering posts temporarily will normally be excluded.

The consultation paper for a restructure will, where appropriate, contain a proposed assimilation list, which will be consulted on as part of the formal consultation process. This list will detail all staff affected by the restructure and what rights they have to any posts in the new structure. The possible rights they could have are:

- Direct assimilation rights
- Competitive assimilation rights
- No assimilation rights

Direct assimilation

This means that there is no substantial difference between the member of staff's current job description and the new job description in the new structure AND there are either more posts than staff or an equal number of posts and staff in the proposed structure. At the date at which the new structure comes into force, the member of staff is assimilated into the new job description and duties.

Competitive assimilation

This means that there is no substantial difference between the member of staff's current job description and the new job description in the new structure BUT there are more staff than posts in the new structure. For these posts, if voluntary measures do not reduce numbers sufficiently, then there will be a competitive selection process in line with normal school recruitment procedures to determine who is appointed.

Ring fencing

Where there are new posts or vacancies in the structure to which no staff have assimilation rights, it may be agreed that these are ring fenced to staff affected by the restructure. Where there are staff who are at risk of redundancy, they will normally be considered for such posts first as an offer of suitable alternative employment. Where there are no staff at risk of redundancy or where a wider ring fencing will potentially free up other roles as suitable alternative employment, ring fencing may, on agreement, be opened to all staff regardless of whether they have a post or not.

The order in which interviews take place, i.e. assimilation interviews and ring fence interviews, should be discussed and agreed as part of the consultation process based on the specific circumstances of the restructure.

To apply for a post in the ring-fence, staff will be asked to complete and submit an expression of interest form. Staff are not limited to only one application. The interview will be based on a normal recruitment process. After the ring-fence, any remaining posts may be recruited to.

7. Consequences of failure to consult

The requirements of consultation are that trade unions are meaningfully engaged in the process. Inadequate consultation can lead to the trade unions obtaining a protective award from an Employment Tribunal against the employer. This would require the employer to make a payment for a protected and specified period to staff who have been dismissed or are likely to be dismissed. This payment would be additional to any

redundancy payment to which the staff would be entitled.

Employees who consider that they have been unfairly treated in the process may pursue an unfair dismissal complaint through an Employment Tribunal. Such complaints can include questions relating to the statutory definition of redundancy, the criteria and/or methods for selection, inadequacy of consultation or attempts at redeployment.

8. Identifying staff as redundant

Following the close of consultation and if sufficient volunteers for voluntary redundancy have not been found the school's Organisational Change Panel will apply the agreed selection criteria and identify which staff are provisionally redundant.

The school's Organisational Change Panel will write to those staff whose posts have been identified and offer to meet with them in a 1-1 meeting in order that they may make individual representations. An HR representative for the Trust may also be present. Employees are also entitled to be accompanied by their trade union representative or a workplace colleague.

The purpose of this meeting is for the school's Organisational Change Panel to explain the reasons for the employee's selection and for the employee to ask any questions relating to this. The employee may also wish to present reasons why they should not have been selected to the Panel. However, it should be noted that the meeting is not an opportunity for the employee to bring information already provided during the process or comment on the performance of other employees. At the end of the meeting the employee may wish to ask the Panel to reconsider its provisional selection decision.

Following this meeting, the Panel, if applicable, will write to the relevant individuals confirming their decision to make a determination to dismiss on the grounds of redundancy, they will be advised that they may appeal in writing, against the decision to terminate their current contract by reason of redundancy, this must be in writing within 5 working days of receipt of the letter.

9. Appeals

A member of staff may appeal against their selection for redundancy to an appeals committee. Upon receipt of appeals, the Appeals Committee will meet with the appellant and their representative to consider the grounds for appeal. An HR representative for the Trust will attend and advise the Appeals Committee.

The Appeals Committee will write to the individual concerned informing them of their decision, which will be final.

10. Suggested format for Business Case

Executive summary

This should include the reasons for the proposal, i.e. is the proposal due to the financial constraints or to improve the quality of the provision. Include actions taken to mitigate redundancies.

Restructuring proposals

This section should give details of the number and the posts that will be at risk. The current and proposed structures should also be included as appendices.

Financial implications

The financial situation should be outlined in this section, including the savings made, if any, as a consequence of the proposed reorganisation, indicative costs of redundancy and budgetary information included as appendices.

Outline timetable

Relevant dates from the start to end of the process.

Any additional notes

Any information that you feel may be useful for the Trustees to consider can be included in this section of the report.

Appendices

- The current structure
- The proposed structure
- Other as required

Business Case

Summary of proposal - including number and type of posts likely to be redundant and any estimated redundancy/early retirement costs.

Please attach additional documentation that may be appropriate, including structure charts, JDs etc.

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HR Manager comments

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Signed:

Date:

Approved: Yes / No

CFO comments		
Signed:	Date:	Approved: Yes / No

CEO comments		
Signed:	Date:	Approved: Yes / No

Resources Committee recommendation		
Signed by Chair of Resources Committee:	Date:	Approved: Yes / No

Trust Board Decision

Signed by Chair of Trust Board:

Date:

Approved: Yes / No