



Redundancies in schools

The general redundancy advice in this toolkit applies equally to schools as to any other employer. This factsheet looks at some of the issues for branches dealing with potential redundancies in schools in England. School staff in Scotland are covered by the Scottish Joint Council, and in Wales are part of the NJC. They are covered by local authority redundancy agreements. In Scotland the schools are administered by local councils and there is separate legislation on school closures and financial support for special needs.

Staff: pupil ratios

Some schools may think it's easier to make support staff redundant than teachers. UNISON believes redundancy criteria must not discriminate against different groups of staff. Any criteria need to be fair and transparent. Branches should oppose criteria that unfairly impact on support staff.

Schools may claim they have a legitimate business case to make support staff redundant because they need to maintain teacher : pupil ratios and maximum class sizes. Use the Section 52 statements (in England) and other budgetary information to see if this is genuinely the case and challenge if necessary. In nursery settings, staff : pupil ratios also refer to qualified early years staff.

Employment linked to a specific child

Some staff, such as special educational needs assistants, may have employment contracts linked to the care of a particular child. This can lead to redundancy when that child leaves the school. UNISON discourages this practice. However if it is occurring, branches should seek to reach agreement on redeployment across schools in the authority and/or pooling arrangements, where a pool of staff can be deployed if a child needs support.

Falling school rolls

Schools are funded on a per pupil basis, so where the number of pupils in the school is falling, this will obviously impact on the school's budget.

Staff are entitled to TUPE protection if a school merges with another due to falling rolls. They are not necessarily entitled to undertake the same role in the new school.

Calculating redundancy pay for term-time workers

When determining what is meant by a week's pay in calculating redundancy pay for term-time workers, employers must use the actual amount earned for a week's work as the basis for redundancy pay, not a worker's annual salary divided by 52. An employment appeal tribunal ruled that the higher amount should be used as the basis for calculating redundancy pay (*Gilbert and others v Barnsley MBC, EAT/674/00*).

Get parents involved

Local schools are at the heart of every community – there is normally keen public support for keeping them open. Try to involve parents and children in your campaign.

School closures, change of status and TUPE

If a school is closed by the local authority or the secretary of state or government department and then reopens as a new school, existing staff should be re-employed. Both TUPE and rights acquired through continuity of employment should apply.

The right to maintain pay and conditions where schools close or change status is set out in *The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007*. You can download the regulations at opsi.gov.uk/si/si2007/uksi_20071289_en_1

The guidance and legal position is not always straightforward – branches must seek advice from UNISON education. Email education@unison.co.uk

Staff employed by more than one school

Where staff are employed in more than one school, the board of one of the schools can be delegated to act as the employer. Ending the employment at one school should not normally affect employment at the other school.

Right to appeal

School staff have a right to appeal to the board of governors against a decision to make them redundant. The appeal should be heard by a panel of governors, none of whom should have been involved in the original redundancy decision.

School staffing legislation (England)

While many of the general issues are similar across the UK, England has separate legislation relating to appointing and dismissing school staff.

Appointing and dismissing staff

Community school staff are local authority employees. However they are generally appointed by the school's head teacher or governing body through delegated powers. This can have implications for redundancy and the advice and support we give members.

In community schools, the head teacher or governing body has the power to decide if staff are to be made redundant and to determine the criteria for who will be made redundant. However, as staff are employees of the local authority, there should be opportunities for redeployment within the authority, and schools are obliged to consult with the local authority before dismissing staff.

UNISON strongly recommends branches have a model agreement relating to redundancies and redeployment in schools. This ensures fair and transparent criteria can be applied and there is co-operation between schools and the local authority.

The regulations governing the appointment of school staff are in the *School Staffing (England) Regulations 2003*. Download them at opsi.gov.uk/si/si2003/20031963.htm#n15

Self-governing schools

In self-governing schools, such as trust, foundation or voluntary aided schools, the school usually acts as the employer (unless a member of staff is employed directly by the authority to work in the school). This means staff made redundant will not necessarily have the opportunity for redeployment in another school. However in many authorities schools have entered into voluntary protocols that allow staff to be redeployed within the authority.

Branches should seek to ensure that any redundancy agreement includes all self-governing schools.

School meals staff

The *School Staffing Regulations* state the local authority is responsible for the appointment and dismissal of school meals staff – and is therefore responsible for determining redundancy criteria. The local authority must consult with the school where the staff member works before any decisions are made.

School funding and budgets: Section 52 statements

Under Section 52 of the School Standards and Framework Act, local authorities are required to publish a summary of all actual and budgeted expenditure on education.

This can be useful when fighting redundancies and closures – it includes financial information such as the level of reserves on a school-by-school basis. Information will normally be published on the authority website and is also available on request.

If a school claims redundancies are the result of school remodelling or other initiatives arising from the national social partnership in schools (WAMG agreement in England and Wales), this should be raised with the local social partnership (local WAMG) or reported to UNISON head office.