



## **Xavier Catholic Education Trust Restructuring and Redundancy Procedure**

**This Restructuring and Redundancy procedure has been approved  
and adopted by the  
Xavier Catholic Education Trust in May 2023**

**Committee Responsible: HR**

## **1. Policy Statement**

The Board of Trustees is responsible for determining the size and most effective deployment of the staffing complement across the Xavier Catholic Education Trust. At individual school level the Local Governing Committee will be responsible under the guidance of Trust representatives. Inevitably, the needs of a school change over time and all local governing committees have a responsibility for periodically reviewing and, where necessary, undertaking changes to the staffing body in response to such factors as financial constraint, school reorganisation, demographic change or developments in policy, curriculum or technology.

In such circumstances, consideration may need to be given to such options as:

- Reducing the overall size of the school workforce.
- Making adjustments to working hours or contracted hours.
- Making adjustments to staffing levels and/or roles and responsibilities in particular areas.

Legislation and good practice require that the Trust Directors and Local Governing Committees seek to avoid, wherever possible, the compulsory redundancy of any member of staff and to support the wellbeing of school employees through difficult periods of change.

The Xavier Catholic Education Trust aims to identify future staffing needs at an early stage through careful monitoring and planning in order to manage changes to the workforce through the use of natural measures where possible. Where action is required, in the short term in response to more immediate circumstances, the Xavier Catholic Education Trusts' aim is to make use of measures at its disposal to maintain employment stability, most particularly through the redeployment of affected individuals into suitable roles either within the individual school, Xavier Catholic Education Trust or beyond.

The Xavier Catholic Education Trust recognises that communicating early warning of potential redundancies to affected staff and union representatives, where there is still an opportunity to influence the emerging proposal and consider alternatives, can be an effective way of mitigating the impact and ensuring members of staff have a fair opportunity to consider all possible options available to them.

The Xavier Catholic Education Trust will follow this procedure where a potential redundancy situation has arisen. It will also have regard to the principles of consultation outlined in this procedure in circumstances where the Xavier Catholic Education Trust is considering proposals to change terms and conditions of employment for staff which does not entail a reduction in staff head count. This procedure will be applied fairly and consistently to all staff employed by the Xavier Catholic Education Trust regardless of gender, gender reassignment, race, colour, marital or civil partnership status, national or ethnic origin, nationality, disability, sexual orientation, age, religion, trade union membership/non membership or number of hours worked. Employees with a disability may request reasonable adjustments at any stage of the process.

## **2. Scope**

This procedure applies to all employees engaged directly by the Xavier Catholic Education Trust to work at the Trust and any school that is part of the Trust. It therefore does not apply to agency staff, including supply teachers, casual employees where there is no mutuality of obligation, contractors or their staff, or workers who are engaged on a self-employed basis.

## **3. Planning to Avoid Redundancies**

The Local Governing Committee of each school within the Xavier Catholic Education Trust will undertake annual reviews of the school staffing requirements, usually during the autumn term and at any other time when it is deemed necessary to do so. Where such reviews indicate that changes to the staffing complement will be required in the longer term, the Local Governing Committee will adopt relevant strategies aimed at achieving such changes in the desired timeframe whilst minimising the impact on staff. Strategies which might be considered include:

- Not replacing (or only partially replacing) posts following natural wastage.
- Restricting the recruitment of new permanent staff.
- Using fixed-term or temporary staff to address short-term staffing needs.
- Reduction or variation in hours on a temporary or permanent basis.
- Voluntary redeployment of staff into vacancies within the school.
- Early release of staff working contractual notice, by mutual agreement.
- Training or re-training of existing staff.
- Reducing reliance on overtime.
- Any other voluntary means by mutual agreement.

Where the timescale to achieve change is, or has become, sufficiently pressing that redundancies are being contemplated, the following process will be followed:

#### **4. Identifying a Redundancy Situation**

A redundancy is defined under the Employment Rights Act 1996 section 139 as a dismissal which is wholly or mainly attributable to:

- The fact that the employer has ceased or intends to cease:
  - to carry on that business for the purposes for which the employee was employed, or
  - to carry on that business in the place where the employee was so employed, or
- The fact that the requirements of the business:
  - for employees to carry out work of a particular kind, or
  - for employees to carry out work of a particular kind in the place where the employee was employed by the employer,

has ceased or diminished or are expected to cease or diminish.

When it becomes apparent following an initial staffing review that a potential redundancy situation has arisen, the Local Governing Committee and/or Headteacher will seek detailed HR advice on next steps.

#### **5. Commencing Consultation**

##### **5.1 Formulating a Proposal**

In order to facilitate a fair consultation process and afford the appropriate rights to employees, the Local Governing Committee will delegate to the Headteacher in his/her executive role, who will work with a panel of governors.

This panel of governors, with the Headteacher, will be responsible for:

- formulating the proposed means of achieving staffing reductions.
- handling the consultation process.
- applying the chosen selection methods; and
- writing to those staff who have been selected for redundancy.

The Local Governing Committee will also establish a second panel of governors to hear any subsequent appeals against redundancy selection decisions. The members of this second panel must not have contributed in any way to the actions or decisions of the first panel. Reference to the role of the Local Governing Committee hereafter incorporates reference to these governor panels.

## **5.2 Initial Notification to Staff and Representatives**

The Head Teacher / panel will provide all affected staff at the outset with full information about the restructuring/redundancy proposals to enable meaningful consultation on an individual basis.

We will also consult with representatives of our recognised trade unions or elected employee representatives where it is proposed to dismiss as redundant 20 or more employees at the school over a period of 90 days.

If more than 20 potential redundancies are involved the following information will be provided in writing:

- The reasons for the proposal.
- The numbers and descriptions of employees who are potentially affected.
- The total number of employees of any such description employed at the school.
- The proposed method of selecting the employees who are at risk of redundancy.
- The proposed method of carrying out any resulting dismissals, including the period over which the dismissals are to take effect.
- The proposed method of calculating the amount of any redundancy payments to be made.
- The number of agency workers working temporarily at the school, the areas in which they are working and the type of work they are undertaking.

The Headteacher will also provide information about the proposed timetable for consultation and any measures it is considering mitigating the effects of the proposal and to preserve continuity of employment.

Such measures might include:

- Natural wastage (if this is a reasonable prospect in the timescale proposed).
- Mutually agreed variations to contracts of employment on a temporary or permanent basis.
- Redeployment within the school or Trust.
- Any other voluntary means by mutual agreement, including consideration of voluntary redundancy if appropriate.

The Xavier Catholic Education Trust recognises that affected staff may require additional support during this period of uncertainty and will give due consideration to sources of support to which employees may be referred, such as an Employee Assistance Programme where this is available to staff. The Xavier Catholic Education Trust also encourages affected employees to contact their trade union for help and advice.

## **5.3 Formulating a Timetable for Consultation**

The Xavier Catholic Education Trust will adhere to the statutory minimum consultation periods which are in force where 20 or more members of staff are at risk of redundancy. Where less than 20 members of staff are at risk, the Xavier Catholic Education Trust recognises that there is no set minimum period of consultation, but will consult for a reasonable period, taking into account the particular circumstances, including (but not limited to) consideration of the number of staff affected and the deadline for achieving the reduction or workforce reorganisation. The Xavier Catholic Education Trust considers it good practice to allow a minimum of two weeks for formal consultation with individual staff.

## **5.4 Selection Pools and Criteria**

The Local Governing Committee will determine the proposed selection pool and method of selection, and, where relevant, the selection criteria to be used in the event of a compulsory redundancy. These will form part of the consultation exercise. The Xavier Catholic Education Trust acknowledges that there are no set criteria which can be universally applied in such situations but will apply the general principle of seeking to achieve a balance between the needs of the Trust / school and the to act fairly and consistently when dealing with staff. Careful consideration will be given to the 'pool' of staff from which those to be made redundant will be selected.

In all cases, the Xavier Catholic Education Trust will be mindful of the requirement not to select staff in a way which might discriminate, directly or indirectly, against individuals on one or more unlawful grounds. In devising selection criteria and establishing selection pools, the Xavier Catholic Education Trust will seek HR advice to reduce the risk of any possible discriminatory impact.

## **5.5 Consulting with Staff and Representatives**

In undertaking meaningful consultation with staff and appropriate trade union representatives, the Local Governing Committee will:

- Provide adequate information for the purpose.
- Consult with all those who are affected by the proposal, even where employment security is not directly at risk.
- Provide opportunities, both in writing and face-to-face, for members of staff and representatives to express their views on the proposal, to understand the impact on individuals, and to make suggestions and contributions which may mitigate the impact of any proposed redundancies.
- Give open-minded and conscientious consideration to the views expressed during the consultation period and, where appropriate, to respond directly to these.
- Ensure that absent employees (for example, those on maternity/adoption leave, long term sickness absence or sabbatical) receive the same information as other staff and have the opportunity to engage with the formal consultation period through methods adapted as appropriate to the circumstances.

## **5.6 Voluntary Redundancy**

The Xavier Catholic Education Trust may be willing to consider requests from members of staff for voluntary redundancy. The Xavier Catholic Education Trust reserves the right, however, at its absolute discretion to decline such requests, for example for financial reasons or in the interest of retaining skills. An application for voluntary redundancy will not preclude an employee from applying to be considered for suitable alternative posts, where these exist. Voluntary redundancy payments will be capped at the statutory level.

## **5.7 Redundancy and Right of Appeal**

### Applying selection criteria

At the end of the consultation period, should the application or consideration of other measures not have eliminated the need for compulsory redundancy, the Local Governing committee, through the panel of governors established for the purpose, will apply the finalised selection criteria to the established 'pool' of staff deemed to be at risk. In the event that the 'pool' consists of only one person this selection process will not be required.

### Notification of selection for redundancy

Those employees selected by this means will be notified of their selection. Should an individual disagree with their individual assessment or feel that selection criteria have been unfairly applied in their case, they should put this in writing to the governors' panel and any individual concerns in the decisions made will be reviewed. An opportunity to put these concerns forward verbally can be requested as a reasonable adjustment to accommodate a disability or where an employee has difficulties with written expression.

### Giving notice

Notice of termination of employment will be given in accordance with the contract of employment, or the statutory rights of the employee concerned, whichever is longer.

Depending on the circumstances, Xavier Catholic Education Trust may waive its right to insist on members of staff working their notice and instead give a payment in lieu of notice.

### Right of appeal

Any such employee under notice of dismissal will have the opportunity to appeal against the decision to the governors' appeals panel in writing within 5 working days of receiving the written notice of redundancy.

Where possible the appeal will be heard within 5 working days of receipt of the appeal. A written response, confirming the decision at the appeal hearing will be sent to the employee within 5 working days of the appeal hearing.

The member of staff concerned has the right to be accompanied at appeal hearings by a trade union representative or workplace colleague.

## **Redeployment Principles**

### **6.1 Supporting Employees**

Redeployment opportunities within the Xavier Catholic Education Trust will be sought:

- a) prior to the issuing of notice of dismissal where an individual has expressed an interest in securing an alternative post and this would assist with achieving the required staffing changes; or
- b) where an individual is vulnerable to redundancy, at any point in the consultation process where the individual wishes to be considered for redeployment, and in any event no later than the start of the individual's notice period.

The individual school will ensure that affected individuals are given reasonable paid time off work to seek employment or to arrange training after notice of dismissal has been given.

### **6.2 Trial Periods**

Employees offered redeployment opportunities where the terms and conditions of the new job differ from the old position are entitled to a statutory four-week trial period for the Xavier Catholic Education Trust and the employee to assess suitability for the role. In some circumstances, it may be appropriate to extend a trial period to allow for relevant training; typically, this might be for a further four weeks.

Both the Xavier Catholic Education Trust and the employee will have the right to terminate the trial period during and at the end of four weeks. Any decision to do so will need to be based on reasonable grounds and both parties will need to substantiate their decision.

## **7. Protection of Earnings**

### **7.1 Teaching Staff**

The Trust has regard to the pay safeguarding provisions in the School Teachers' Pay and Conditions Document, although the Xavier Catholic Education Trust retains ultimate discretion over what provisions to apply. Affected teachers will therefore be provided with detailed information regarding these where applicable.

### **7.2 Support Staff**

Xavier Catholic Education Trust will have discretion to protect the pre-redundancy salary of support members of staff where redeployment to avoid redundancy is to a lower graded alternative position. Where discretion is exercised, pay protection will be limited to a maximum of six months.

## **8. Redundancy Payments**

### **8.1 General Provisions**

Employees with two or more years' service will be entitled to a statutory redundancy payment. The period of continuous service will be calculated with reference to the Employment Rights Act and the Redundancy Modification Order.

Xavier Catholic Education Trust will calculate redundancy payments using the following statutory formula:

- one and a half weeks' pay for each year of employment in which the employee was aged 41 or over.
- one week's pay for each year of employment in which the employee was aged between 22 and 40; and
- half a week's pay for each year of employment up to the age of 21.

The maximum number of years of employment that can be taken into account is 20. The week's pay is based on actual pay at the time of redundancy. The amount of this payment will be confirmed when the employee is selected for redundancy and the sum will be paid along with the employee's final salary payment or payment in lieu of notice. For staff where TUPE applies, the terms and conditions in place at the time of transfer will be paid.

Where an employee has two separate jobs, each with a separate contract of employment, and is made redundant from one of these posts, the employee would be eligible for a redundancy payment for that specific role where eligible. For the purposes of clarity, the redundancy payment in this scenario would be based only on the period of service in the role which is redundant.

## **8.2 Exclusions from Redundancy Payments**

Employees will not be entitled to a redundancy payment if they:

- Accept an offer of employment with the school or an associated employer\* **and** commence what may be considered as continuous employment within four weeks of leaving the redundant post. For the sake of clarity, an offer of employment made **after** the date of termination will not affect entitlement to redundancy pay regardless of when the new employment starts.
- Unreasonably refuse suitable alternative employment offered by the school or an associated employer\*, prior to their last day of service or following completion of a trial period.
- Unreasonably refuse to complete a trial period or resign during a trial period for reasons unconnected with the suitability of the new role.

\* 'Associated employer' for these purposes includes a Modification Order Body (contained within the Redundancy Payments (Modification) Order 1999 (as amended)).

- Where a payment has already been made, the Employee will be required to repay the amount paid to them.

## **9. Data Protection**

During any redundancy or restructuring exercise the Xavier Catholic Education Trust will be processing the personal data of employees in order to meet its consultation obligations, undertake selection activities, work with employees as part of redeployment efforts and otherwise meet the requirements of this procedure. Such personal data will be held securely and only shared with those involved in undertaking, supporting or advising on these activities, or as otherwise provided for by law. Where personal data is disclosed to trade union representatives as part of the consultation process, they are also obliged to handle such data in accordance with relevant data protection laws.