



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 January 2025**

Committee Responsible: HR

Xavier Catholic Education Trust Mission Statement

Our mission is to provide an outstanding Catholic education for all the children in our schools. We will follow the example and teachings of Christ and everything we do will be inspired by gospel values. We will strive for excellence in all areas of our work and cherish every child in our care.

1. Procedure Policy Statement

The Trustees of Xavier Catholic Education Trust (Xavier) and the Local Governing Committee (LGC) are responsible for determining the size and most effective deployment of the staffing complement across the Trust as a whole. Inevitably, the needs of a school change over time and all LGCs have a responsibility for periodically reviewing those needs and, where necessary, undertaking changes to their staffing body in response to such factors as financial constraint, school reorganisation, demographic change or developments in policy, curriculum or technology.

In such circumstances Xavier and the LGC may need to consider 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 Xavier Directors and the LGCs 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.

Xavier 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, Xavier aims 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, or the Trust as a whole, or beyond.

Xavier 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.

Where there is a risk of redundancy, Xavier and the LGC will follow the procedures set out in this policy. This procedure does not form part of any employees contract of employment and may be amended at any time.

This procedure will be applied fairly and consistently to all staff employed by the Xavier 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 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 Trust and / or Local Governing Committee of each school within Xavier 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 LGC 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 or across the Trust .
- Early release of staff working contractual notice, by mutual agreement.
- Training or re-training of existing staff.
- Reducing reliance on overtime.
- Consideration of different working practices and working patterns
- Any other voluntary means by mutual agreement.

Where teaching posts are at risk of redundancy, sufficient time will be given for consultation and for teachers' notice periods to expire before the proposed implementation date. To implement at the beginning of the following term notice must be given by the end of October, February or May.

Where the timescale to achieve change is, or has become, sufficiently pressing that redundancies are being contemplated, the process set out in the following sections 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 LGC and/or Headteacher will seek detailed HR advice on next steps.

5. Commencing Consultation

5.1 Formulating a Proposal and seeking advice

When it becomes apparent following an initial staffing review that there is a risk of redundancy, detailed advice will be sought from the Trusts' HR team.

In order to ensure appropriate representation and appeal rights to employees and secure a fair procedure, Xavier will delegate powers to formulate the proposed means of achieving staffing reductions, the handling of the consultation process and any resulting redundancy dismissals, to the Headteacher or delegate in his/her executive role, plus one governor (the first committee).

The LGC /Xavier will also establish a second committee of governors or trustees to hear appeals against redundancy selection decisions made by the first committee. The members of this second committee must not have contributed in any way to the actions or decisions of the first panel. Reference to the role of the **Committee**

hereafter incorporates reference to the appropriate committee of Xavier / governors.

5.2 Initial Notification to Staff and Representatives

The Committee will provide school staff and the appropriate trade unions and teacher associations with background information about the staffing review, and the reasons for undertaking it, at the earliest reasonable opportunity. At the same time, or as soon as possible thereafter, the Committee will provide to all parties the following information 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.
- Any proposals with regard to change to job roles, reporting lines, operational changes or structure
- A timeline detailing each stage of the process.

The Committee 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 Xavier schools.
- Any other voluntary means by mutual agreement.,

Xavier 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

Xavier 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, Xavier 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. Xavier considers it good practice to allow a minimum of two weeks for formal consultation with individual staff.

5.4 Selection Pools and Criteria

The LGC / Xavier representatives 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 staffing reduction and shared as part of the business case/ restructure document. These will form part of the consultation exercise. Xavier 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 need 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 Xavier 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, Xavier will seek HR advice to reduce the risk of any possible discriminatory impact.

Selection of staff will take into account all relevant legislation in place at the time of implementation, including protection from redundancy which applies to certain employees. In the case of employees who are pregnant, or on maternity or family leave, suitable alternative employment (where available) will be offered.

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

5.5 Consulting with Staff and Representatives

In undertaking meaningful consultation with staff and appropriate trade union representatives, the 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, 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

Xavier will consider requests from affected members of staff for voluntary redundancy as part of the consultation process. It 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

At the end of the consultation period, should the application or consideration of other measures not have eliminated the need for compulsory redundancy, Xavier, through the committee established for the purpose (the first committee), will apply the finalised selection criteria to the established 'pool' of staff deemed to be at risk.

Those employees identified to be at risk of redundancy by this means will be notified of their right to make representations to the first committee against their selection. No decision to dismiss a member of staff on grounds of redundancy will be taken before the employee has either taken up this right to make representations against selection, or the time allowed to exercise this right has elapsed in accordance with the notified deadline.

Where the decision to dismiss by reason of redundancy is upheld following the consideration of individual representations, the Headteacher or delegate will notify the HR advisors of those members of staff who have been selected for redundancy. The appropriate body will be responsible for ensuring that notice of termination of employment is given in accordance with the contract of employment, or the statutory rights of the employee concerned, whichever is longer.

Any such employee under notice of dismissal will have the opportunity to appeal against the decision to the appeals panel (the second committee) in writing within 5 working days of receiving the written outcome of the representations hearing. If the appeal is upheld, notice of dismissal will be withdrawn (or, in unusual circumstances where the appeal has not been heard before the expiry of notice, the employee reinstated).

The member of staff concerned has the right to be accompanied at any such representations or appeal hearings by a trade union representative or workplace colleague. The usual advisory rights accorded in the case of such hearings will apply. The Headteacher or delegate also has the right to attend such hearings for the purposes of giving advice and HR will be present to provide support and advice.

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

Redeployment Principles

Xavier will always seek to redeploy staff to a suitable alternative role in a local school or centrally within the Trust wherever possible.

6.1 Supporting Employees

Redeployment opportunities within the 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 Xavier 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 Xavier 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 appropriate safeguarding provisions of the School Teachers' Pay & Conditions Document will apply to members of teaching staff who are redeployed to another school in the Trust where the salary and/or allowances in the new post are of a lower value (or where allowances are not applicable to the new post).

At the date of this policy, safeguarding provides for a maximum of three years protection of salary and/or allowances, based on the difference between the old and new salary/allowance (or based on the value of the

allowance if there is no equivalent allowance in the new post). The School Teachers' Pay & Conditions document is subject to change and therefore the provisions of the latest Document will take precedence over the arrangements outlined in this procedure in the event of any discrepancy.

7.2 Support Staff

Xavier will have discretion to protect the pre-redundancy salary of members of support 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 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 Trust, local authority, or another school within the local authority, prior to their last day of service
- Refuse to complete, without good reason, a trial period for a job offered by the Trust, local authority, or another school within the local authority
- Resign from a job during a trial period
- Refuse an offer of a job without good reason, after completion of a trial period

* '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.

8.3 Refusal of redeployment

If an employee refuses the offer of redeployment to a suitable alternative position in a local school, then a formal meeting will be held by the panel to investigate the reasons for the refusal. The panel will decide whether the reasons for refusal are reasonable and whether redundancy is the only option, in which case the redundancy payments will apply and notice given.

If the reasons for refusal of a suitable alternative position (redeployment) are deemed to be unreasonable, the employee's contract(s) will still be terminated by reason of redundancy but no redundancy payments will be made.

9. Data Protection

During any redundancy or restructuring exercise Xavier 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.