

# Redundancy Policy & Procedure

June 2018

## Policy Control

<b>Reference</b>	Redundancy Policy and Procedure
<b>Date approved</b>	June 2018
<b>Approving Bodies</b>	HR Committee, Board of Governors
<b>Implementation Date</b>	June 2018
<b>Supersedes</b>	Redundancy Policy and Procedure November 2012
<b>Related policy</b>	Redeployment Policy and Procedure
<b>Review date</b>	June 2021
<b>Author</b>	Emma Bullen
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<b>Benchmarking</b>	University of Strathclyde, Royal Conservatoire of Scotland, University of Dundee, University of Glasgow, University of Edinburgh,

## **1. PURPOSE AND SCOPE**

It is the aim of the Glasgow School of Art (GSA) to ensure, as far as possible, security of employment for its staff. However, it is recognised that from time to time circumstances may make redundancies unavoidable, such as the need to consider reductions in staffing levels, and restructuring to enhance effectiveness that involves a reduction or cessation of work of a particular kind. In these circumstances, the provisions of this policy shall be applied.

This procedure will apply to individual redundancies and in the event of collective redundancies<sup>1</sup>.

GSA in consultation with the recognised trade unions will consider all reasonable measures to avoid redundancy, or minimise the need for compulsory redundancies, and to mitigate their impact should redundancy become unavoidable (see section 3).

Where an individual is placed at risk of redundancy GSA will handle the redundancy in a fair and non-discriminatory manner ensuring that consideration is given throughout the application of this policy to the Public Sector Equality Duty (PSED) and GSA's on-going commitment to mainstreaming equality.

## **2. DEFINITION OF REDUNDANCY**

According to the statutory definition, as set out in the Employment Rights Act 1996, a redundancy occurs where a dismissal is wholly or mainly because:

- the employer has ceased, or intends to cease, to carry out their business for the purposes for which the employee is employed
- the employer has ceased, or intends to cease, to carry on that business in the place where the employee was so employed
- the requirements of that business for employees to carry out work of a particular kind have ceased or diminished or expected to do so
- the requirements of the business for employees to carry out work of a particular kind in the place where they were so employed have ceased or diminished or are expected to do so

## **3. MEASURES TO AVOID OR MINIMISE REDUNDANCY**

GSA is committed to retaining employees and seeking to avoid, or minimise compulsory redundancies when possible. Every reasonable effort will be made to avoid and minimize compulsory redundancies. GSA is committed to considering proactive measures to avoid or minimise the need for compulsory redundancies. Through consultation with the recognized trade unions, areas for consideration will include:

- Natural staff turnover

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<sup>1</sup> Employers who propose to make 20 or more employees redundant 'at one establishment' over a period of 90 days or less must consult with the recognised independent trade unions. S.188 (1A) Trade Union and Labour Relations Act (TULRCA) 1992.

- Restricting recruitment
- Redeployment
- Retraining
- Reductions in hours
- Seeking volunteers from the affected staff
- Voluntary severance
- Making savings in non-staff budgets
- Reduction or elimination of overtime working
- Ending the employment of external contractors
- Reviewing the use of temporary, short term or contract staff or consultants
- Volunteers for part-time working and job sharing
- Sabbaticals and secondments
- Seeking alternative funding, e.g. where funding for a particular project has expired

#### **4. CONSULTATION WITH TRADE UNION REPRESENTATIVES**

Where there is a possibility of compulsory redundancy (whether individual or collective) GSA will engage in meaningful consultation with the appropriate trade union representatives, including the provision of clear and accurate information at an early stage on the following points:

- the reason(s) for the proposed redundancies
- the number and description of posts likely to be affected
- the proposed method of selecting employees for redundancy
- the proposed selection criteria to be applied
- the proposed timescales
- the proposed method of carrying out any dismissals, including the period over which dismissals are to take effect
- the proposed method of calculating the amount of redundancy payment to be made in the event of a dismissal by reason of redundancy

- the provisional scoring of potentially affected individuals against any proposed criteria

Consultation should include consideration about ways of:

- avoiding the dismissals
- reducing the number of employees to be dismissed, and
- mitigating the consequences of the dismissal (s)

## **5. CONSULTATION WITH INDIVIDUALS**

Whilst no set time period for consultation is stipulated in legislation for individual redundancies, consultation will begin as early as possible, normally two months in advance of any potential redundancy.

In circumstances where any individual may be facing redundancy, the following process outlined will be followed. Individual consultation will take place between the employee and usually their line manager. If required an alternative appointed manager at an equivalent level may be appointed. In addition, this process will be supported by a member of the HR Team.

Employees have the right to be accompanied by a Trade Union representative or workplace colleague during all consultation meetings.

The Head of Department/appropriate manager will write to each member of staff who is at risk of redundancy, setting out the circumstances that have led GSA to contemplate dismissing them by reason of redundancy (see section 2), and inviting them to attend an individual consultation meeting to discuss the matter. The purpose of this meeting will be to discuss the reasons for the potential redundancies, ensure that suggestions to avoid redundancy are considered (see section 3), their selection for redundancy, the selection criteria to be applied, potential re-deployment opportunities and any other relevant information.

At the meeting the staff member will be advised:

- that they are at risk of redundancy and reasons
- how their position may be affected
- of the way in which they may be selected for redundancy
- of the selection criteria (if applicable)
- how the redundancies are to be carried out including the period of time over which it is proposed the redundancies are to be implemented
- what consideration has been given to the possibility of alternative employment opportunities and confirmation that alternative employment opportunities will continue to be sought throughout the consultation process and, if appropriate, throughout the notice period of any reasonable options that could be considered to avoid redundancy

- if no suitable redeployment opportunities are available, that the member of staff will be dismissed on grounds of redundancy

The line manager or alternative appointed manager holding the meeting will ensure that the member of staff has full opportunity to make suggestions as to how their redundancy may be avoided or the effects of the potential redundancy minimised. The line manager or alternative appointed manager will take due note of these suggestions and will fully consider them before any final decision(s) are made.

Where it is deemed necessary, or where it is considered that the discussions outlined above have not been concluded, there may be an opportunity to re-convene the meeting. The number of individual consultation meetings may vary case to case however a minimum of 2 individual consultations should be held.

No final decisions will be made at the initial meeting.

Following the individual consultation meeting(s), the line manager will write to the individual to invite them to a final consultation meeting and advise them of the outcome of the deliberations regarding the suggestions and representations made at the previous meeting(s).

If neither party has identified a viable alternative to redundancy then either:

- a) in the case of unique roles - subject to any representations made by the individual, their dismissal by reason of redundancy will be confirmed.

Or,

- b) the scores against the selection criteria will be confirmed. If this results in the individual being selected for redundancy, their dismissal by reason of redundancy will be confirmed.

Again, the member of staff will be entitled to be accompanied by a trade union representative or a GSA colleague at this final consultation meeting.

## 6. NOTIFICATION COLLECTIVE REDUNDANCIES

In the event of GSA proposing to dismiss as redundant 20-99 staff members at one establishment within a period of 90 days or less (known as collective redundancy), there is a requirement to notify the Department for Business Innovation and Skills (BIS) via the HR1 Form. The deadline for notifying the Redundancy Payment Service (RPS) depends on the number of proposed redundancies.

### **Number of proposed redundancies When notification to RPS must be given**

20 to 99	30 days before the first redundancy
100 or more	45 days before the first redundancy

At the same time as formal notification is given to the BIS, formal notification of such redundancies will be given to the local representatives of the relevant trade unions.

There is no requirement to notify the BIS in the event of individual redundancies.

## 7. CONSULTATION TIMESCALES

GSA will consult with the relevant trade unions in confidence, as early as possible and before consulting with affected individuals. The timescale for consultation will be affected by the particular circumstances of each case but will normally be two months in advance of any potential redundancy.

In cases of collective redundancy there is no set time limit on how long consultations last. However, there is a minimum period before the first dismissal should take place.

<b>Number of proposed redundancies</b>	<b>Minimum consultation period before dismissal</b>
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20 to 99	30 days
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100 or more	45 days
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Where it is proposed that more than 20 staff are to be made redundant within 90 days or less, consultation will begin with the trade unions at least 30 days before the first of those redundancies take effect. "Take effect" is the point at which the decision to make someone redundant is finally communicated, i.e. when notice is served, not the date of actual termination of employment.

Whilst the consultation periods are in line with the statutory minimum, typically consultation timescales will extend beyond the minimum statutory periods through early dialogue with the trade unions.

## 8. SELECTION AND PROCESS

GSA recognises that it may be necessary for a redundancy selection pool to be identified and selection criteria to be applied to determine which individual(s) should be selected for redundancy.

There may also be situations where the post that is to be made redundant is unique and only has a single job holder. In such situations there will not usually be any need for selection criteria.

Consideration should always be given to ensuring that selection criteria have been objectively justified.

### 8.1 Identifying the pool

Careful consideration will be given to identifying the relevant 'pool' of employees from which individuals at risk of redundancy will be selected.

Selecting the pool factors to consider usually consists of at least one of the following:

- those who undertake a similar type of work
- those who work in a particular department
- those who work at a relevant location whose work has ceased or been reduced or expected to do so

## **8.2 Selection Criteria**

In considering the selection of staff for compulsory redundancy, the criteria which may be taken into account may include the following:-

- Skills, competencies, qualifications, knowledge and work experience to meet the present and future needs of GSA
- Current disciplinary and attendance records

The above list is not exhaustive. The chosen criteria for selection must be consistently applied and be as fair and as objective as possible. GSA will base any selection criteria on skills or qualifications that will help to keep a balanced workforce appropriate to GSA's current and future needs.

It is advisable to follow a points-based scoring system in these circumstances which scores each employee against the relevant criteria and this should, if possible be carried out by at least 2 line managers. HR can advise and assist in these circumstances.

Selection criteria will be developed through meaningful consultation with the recognised trade unions and employees should be informed of the criteria being used in the specific case, how it will be applied and by whom.

Senior management along with HR will examine carefully the implications of any selection procedure to ensure that any selection criteria used are fair, objective and non-discriminatory via an equality impact assessment.

## **9. SUITABLE ALTERNATIVE EMPLOYMENT AND OTHER REDEPLOYMENT**

In order to minimise any job losses GSA will seek to redeploy and retain staff whose posts are at risk of redundancy and will explore alternative employment through redeployment opportunities with the affected member of staff through the redundancy consultation process and with reference to GSA's Redeployment Policy and Procedure.

### **9.1 Suitable Alternative Employment**

In some cases GSA will deem alternative employment to be 'suitable alternative employment'. Suitable alternative employment is generally defined as the offer of a post, which is the same or broadly similar to that currently held by the individual in terms of key tasks; the skills and competencies required; the grade; and with equivalent terms and conditions, thus making it a suitable alternative role.

Redeployment to a lower grade would not be deemed 'suitable alternative employment'.

There are two key considerations when assessing 'suitable alternative employment':

- Is the job offer a suitable alternative?
- Is this employee unreasonable to refuse the offer?

The first question is largely objective, albeit that the position must be suitable bearing in mind the tasks, skills, competencies and experience required as well as the related terms and conditions. The second point is based on whether the employee has sound reasons for refusing the offer. Whether it is reasonable for the employee to reject the offer should be assessed subjectively and considering the individual's personal circumstances. Factors to be taken into consideration may include for example pay, loss of status, loss of fringe benefits, place of work, general terms and conditions, job prospects, wages, hours, location and job content along with an individual's personal circumstances.

Where a job is offered as 'suitable alternative employment', if an employee *unreasonably* refuses the offer they may forfeit their right to a redundancy payment.

Even if an offer of alternative employment is objectively reasonable, the employee can still be reasonable for refusing it provided they do so for sound and justifiable reasons. It does not matter if another employee may have accepted the offer. GSA will therefore consider the circumstances and not unreasonably refuse entitlement to redundancy pay in these cases.

## **9.2 Alternative Employment**

Alternative employment is defined as a role which differs significantly to the role that the member of staff is currently employed within. It may be at a different grade with different terms and conditions e.g. pay, hours, location of the role. Staff may require some support in the form of training and development to enable them to successfully move into such a role. If a member of staff refuses an offer of alternative employment they would not lose any entitlement to statutory redundancy pay.

If 'alternative employment', not deemed 'suitable' is offered, it will be open for the employee to decline the offer without forfeiting their entitlement to redundancy pay.

Where GSA offers 'suitable alternative employment' or 'alternative employment' then the offer will be made in writing and specify the terms and conditions relevant to the role.

## **9.3 Trial Period**

Whether 'suitable alternative employment' or 'alternative employment' is offered the job will have a statutory trial period of four weeks to enable the employee and GSA to determine whether the alternative job is indeed suitable. A longer trial period may be agreed if for example training is required.

Either party may choose not to continue following the trial period, in which case the employee will be redundant at the end of the original notice period or the end of the trial period, whichever date is later, unless further alternative employment can be found.

## **9.4 Maternity, adoption and shared parental leave**

There are specific legal provisions relating to the potential redundancy of employees on maternity, adoption, paternity or parental leave<sup>2</sup>. The effect of this legislation is that if there is suitable alternative employment, GSA must offer it to these employees in preference to any other employee who is similarly affected by the redundancy situation. This means that an employee has priority over

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<sup>2</sup> Regulation 10 of the Maternity and Parental Leave Regulations 1999 and regulation 23 of the Paternity and Adoption Leave Regulations 2002, Shared Parental Leave Regulations 2015.



other at risk staff, except any other at risk employee also on maternity, adoption, paternity or parental leave.

## **10. NOTICE OF TERMINATION**

Where redundancy has been confirmed, those selected for redundancy will be given notice of termination in accordance with contractual and legal entitlements.

GSA may ask the member of staff to work their notice period, or permit them paid leave, i.e. allow them to remain at home to allow them to seek alternative employment, or pay them in lieu of notice, depending on the circumstances of the redundancy.

## **11. APPEALS**

A member of staff who is being dismissed by reason of redundancy has the right to appeal against the decision.

The appeal must be lodged in writing to the Human Resources Department with full reasons within 10 working days from the date the member of staff received written notice of the redundancy.

The appeal will be considered by an independent manager with no prior involvement in the case at a level above the line manager who made the original decision regarding the redundancy.

On receipt of the notice of appeal, the manager dealing with the appeal will request from the line manager who took the original decision, to provide information for consideration at the appeal such as: -

- Reasons for dismissal
- Any factors taken into account in reaching the decision
- The process that was followed prior to reaching the decision

The manager dealing with the appeal will write to the affected member of staff inviting them to attend an appeal meeting to be held within 20 days of receiving notice of the appeal and informing them of their right to be accompanied by a trade union representative or a GSA colleague.

The manager hearing the appeal may decide to:-

- Uphold the decision
- Recommend other appropriate action
- Uphold the appeal.

Following the appeal meeting, the individual will be advised in writing of the outcome and the reason for the decision within 5 working days. This is the final stage of the appeal process and the decision is final.

It is possible that a member of staff can be serving their notice whilst waiting to have their appeal considered. In the event that the appeal is successful, then the notice will be withdrawn.

## **12. TIME OFF TO LOOK FOR WORK**

Staff under notice of redundancy are entitled, during their notice period, to reasonable paid time off during working hours to look for new employment or to attend training in respect of future employment.

Subject to the relevant department's operational needs, staff should give their line manager as much notice as possible of their intended absence. Subject to this condition, requests for time off will not normally be refused.

## **13. REDUNDANCY PAYMENT**

A member of staff who has at least 2 years' continuous service who is dismissed by reason of redundancy is entitled to a statutory redundancy payment. The actual redundancy payment will be determined by GSA's Enhanced Redundancy Package in place (if any) at that time. Any changes to the Enhanced Redundancy Packages will be discussed with the representatives of the recognised Trade Unions.

Redundancy payments will be processed on the member of staff's termination date if they have advised GSA in writing that they do not intend to appeal the decision. Alternatively, the redundancy payment will be processed once the appeal process has been concluded and if the original decision has been upheld.

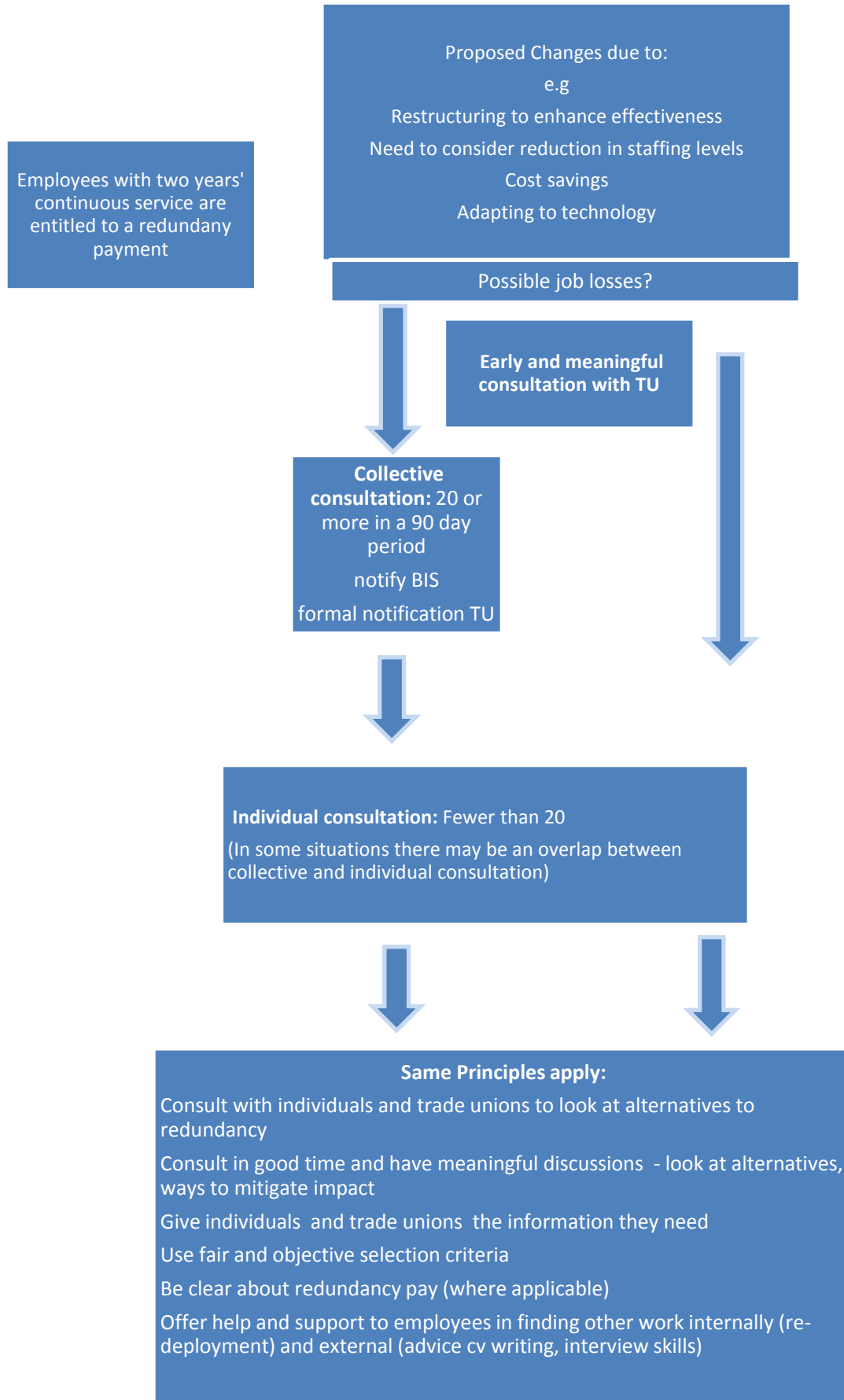
## **14. MONITORING**

This policy will be monitored and reviewed regularly to ensure that it meets the needs of the School and its staff and to ensure compliance with relevant legislation.

## **15. STAFF SUPPORT**

Any staff members who are subject to the provision of this policy may seek advice from their line manager and the HR team. Details of available support are outlined in appendix 2.

## Appendix 1 Collective and individual consultation – the basic principles



## Appendix 2

### HR Support Measures

Below are some examples of the support measures available to individuals.

- Best practice advice on writing a cv
- Best practice advice on interview preparation
- Redeployment Policy and Procedure – redeployment register
- Signposting to other useful sources on information

e.g.

**PACE** (Partnership Action for Continuing Employment) is a free Scottish Government scheme dedicated to providing information, advice and guidance to individuals who are potentially at risk of redundancy.

**Direct Gov**

**Citizens Advice**

**Online job boards**