

# UNIVERSITY OF ABERDEEN

## POLICY ON USE OF FIXED-TERM CONTRACTS

### 1 EXECUTIVE SUMMARY

This policy has been developed to implement the requirements of current employment legislation relating to the equality of treatment of fixed-term employees within approved staffing policies of the University of Aberdeen. The policy establishes the 'standard' form of employment contract within the University as 'permanent'. It also provides a definition for fixed-term and permanent and details objectively justifiable reasons for the continued use of fixed-term contracts in certain circumstances. The rules on the use of successive fixed-term contracts and the redundancy procedures that will apply in appropriate circumstances are also explained.

### 2 DEFINITIONS

The following definitions are derived from the DTI guidance on the interpretation of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 and will apply to this policy statement and all related documentation.

*Fixed-term contract: "A contract of employment that is due to end when a specified date is reached, a specified event does or does not happen or a specified task has been completed."*

This definition of fixed-term includes contracts that would normally be referred to as either fixed-term or temporary depending on the circumstances. Fixed-term contracts have a pre-determined end date whereas a temporary contract is often linked to a specific outcome or event and may only include an indicative end date when the contract is likely to end which requires to be confirmed or amended at a later date.

*Permanent contract: "A contract of employment that is not fixed-term."* Such employees may be referred to as having indefinite or indeterminate contracts and will be referred to as permanent throughout this policy and related documentation. Permanent contracts are ones that may be terminated by giving the appropriate period of notice specified in the contract.

### 3 POLICY

The University of Aberdeen is committed to developing an employment framework that delivers its research and teaching aspirations in an environment that fosters excellence. In support of this the University values the contribution made by all staff and is committed to equal treatment. It is therefore accepted that fixed-term contracts will in the future only be used where there is an objective and justifiable reason for their use and the 'standard' form of contract will be 'permanent' wherever possible. Within this employment framework the University has a positive commitment to supporting career development for all staff. The University will publish, and update at appropriate intervals, guidance on the use of fixed-term contracts.

## **4 FIXED TERM CONTRACTS**

It will not be possible to completely eliminate the use of fixed-term contracts, although their use will be kept to a minimum consistent with the policy. Where it is deemed appropriate and necessary to employ staff on fixed-term contracts they will be engaged on terms and conditions of employment and have access to services on terms that are no less favourable to those enjoyed by comparable permanent employees unless any difference in treatment can be objectively justified.

### **a. Objective Reason for the use of Fixed-term Contracts**

There will be occasions where the continued use of fixed-term contracts is justified. Within this context examples of necessary and objective reasons or circumstances for the use of fixed-term contracts could include:

- Where the appointment is made to cover the activities of another member of staff e.g. to cover sickness, maternity, secondment, sabbatical etc;
- Where there is no reasonably foreseeable prospect of short-term funding being renewed nor other external or internal funding being available or becoming available;
- Where teaching or research is provided by a short term specialist practitioner(s);
- Where the post has been created to satisfy a short term need e.g. seasonal work such as grounds maintenance during the summer period or the implementation of a specific time limited project;
- Where the student or other business demand can be demonstrated as particularly uncertain;
- Where duties are envisaged as being rotational. i.e. where an individual has a permanent contract but is appointed to undertake different duties for a specified period after which they will revert to their permanent appointment;
- Where the individual is re-engaged following severance or retirement to complete activities or transfer knowledge;
- Where the contract is for training or career development e.g. clinical staff undertaking professional training, traineeships/apprenticeship

### **b. Future use of Fixed-term Contracts**

In accordance with the requirements of the Fixed-term Employees (Less Favourable Treatment) Regulations 2002 it is essential that the use of fixed-term contracts is strictly managed within an agreed framework.

Where a request is made to advertise or to issue a fixed-term contract, the individual making the request must provide an objective and justifiable reason, in advance, for this request. Details of any relevant circumstances should also be included to demonstrate that the use of a fixed-term contract is objectively justifiable within the spirit of this policy and the requirements of current employment legislation. The reason and any supporting information will be held on file. The reason for an appointment being made on a fixed-term basis will be included in any further particulars prepared for the post and the objectively justifiable reason for the fixed-term appointment will be specified in the appointment letter issued to the successful candidate.

Advice should be sought from Human Resources where necessary and if there is any doubt about the validity of using a fixed-term appointment Human Resources will seek the

necessary approval to proceed from the relevant Head of College, the University Secretary or the Senior Vice-Principal, as appropriate.

### **c. Requests for Review**

Where a decision is taken to use a fixed-term contract the individual appointed to the post will have the right to ask for the objectively justified reasons for the decision. Where the individual believes that the reasons are not objectively justified they may request a review of the decision. Any such request must be submitted in writing to the Director of Human Resources stating clearly the grounds for the review. The Director of Human Resources will make the necessary arrangements for the review to be undertaken. Subject to the receipt of all the necessary information, the review should normally take place within two weeks of receipt of the request. An ad hoc Review Panel will be convened by an appropriate senior officer of the University, who has had no prior knowledge of the case. The Panel will comprise the senior officer accompanied by two other relevant staff members one of whom will normally be a representative from the appropriate recognised trade union. The reviewers will examine the documentation provided by the individual and the objective reasons provided for the use of a fixed-term contract. The reviewers will not normally be expected to interview staff before reaching their decision. The majority decision of the reviewers will be binding on both parties and will not be subject to further review under the terms of this Policy.

Human Resources will, in future, monitor the use of fixed-term contracts and provide an annual report to the Staffing and Development Committee at its first meeting after 31 July each year.

### **d. Use of Successive Fixed-term Contracts**

The Regulations are designed to prevent any abuse of the use of successive fixed-term contracts. The Regulations lay down a statutory limit of four years on the use of successive fixed-term contracts unless the use of further fixed-term contracts can be objectively justified. Service prior to 10 July 2002 does not count towards this statutory limit. Where it is not possible to provide an objective justification the contract will be deemed to be permanent.

### **e. Non-renewal of Fixed-term Contracts**

The non-renewal of a fixed-term contract is a dismissal in law and is therefore covered by current employment legislation relating to unfair dismissal. The non-renewal of a fixed-term contract may come under one of the fair reason for termination, 'some other substantial reason', provided that the termination is purely related to the expiry of the fixed-term. Non-renewal of fixed-term contracts must not be used as a substitute for good performance management and effective probationary procedures.

## **4 REDUNDANCY**

### **a. Expiry of Fixed-term Contracts**

Where a fixed-term contract expires without being renewed the University, subject to the terms of the statutory redundancy payments scheme, will make a statutory redundancy payment to the member of staff concerned.

The University has agreed procedures for handling redundancy issues. Termination of fixed-term contracts will be undertaken in accordance with these procedures, as amended from time to time.

**b. Termination of Permanent Contracts**

The University has agreed redundancy policies for all categories of staff. These policies, as amended from time to time, will continue to apply.