

# FIXED TERM CONTRACTS PROCEDURES



## 1. USE OF FIXED TERM CONTRACTS

- 1.1 These procedures clarify the types of contract that Cardiff University will use for different working arrangements and specifically the procedures governing the management and termination of such contracts. The reasons for the use of a particular type of contract will be communicated to the member of staff in writing at the outset of the offer of employment.
- 1.2 Cardiff University uses the following recognised appointment categories;
- Open ended Contracts
  - Open Ended Term Time or Seasonal contracts
  - Open ended Framework Contracts
  - Fixed Term Contracts
  - Fixed Term Framework Contracts
  - Worker Agreements
- 1.3 The use of fixed term contracts may be appropriate in the following circumstances where one or more of the following objective justifications occur:
- a. to provide cover e.g. sabbaticals, leave of absence, sickness absence, maternity leave and vacancies;
  - b. the post is a clearly defined training or career development position;
  - c. for short/medium term appointments which are project or task related or require specialised skills for a time limited period normally of 4 years or less;
  - d. in terms of specific business uncertainty when there may be a need to make adjustments in the workforce.
- 1.4 Fixed term contracts will normally only be used for a period of 4 years or less<sup>1</sup>, following which the normal expectation will be that a staff member where being re engaged after 4 completed years in employment will be engaged on an open ended contract Where circumstances prevent this a written record will be made of the reasons, and the staff member informed of the specific reasons and objective justification for that decision.
- 1.5 Where staff are re-engaged on an open ended contract any relevant factors that impact on their continued employment status will be included in the appointment letter.
- 1.6 Termination of a fixed term contract on expiry is defined in legislation as a dismissal by reason of redundancy apart from positions for the provision of cover or training. In law such posts would be deemed to have been dismissed for some other substantial reason.

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<sup>1</sup> The Medical Research Council offers Programme Grant funding for fixed term periods of 5 years. Staff employed on those grants would normally be employed on a fixed term contract unless previously employed on a fixed term contract on a continuous basis.

- 1.7 An open ended contract will be offered at the time of renewal if an individual has already completed 4 years of continuous service on successive fixed term contracts at that time. Appendix A illustrates how this might work in practice. Continuous service<sup>2</sup> with the University is normally deemed to have commenced from the first day of the first fixed term contract unless there has been a break in service of more than a calendar week as defined by employment legislation.

## 2. STATUTE XV

- 2.1 As the appropriate body, Council will consider matters relating to the potential redundancy of staff defined as academic and make delegations of decisions as it determines. Subject to Council's decisions, these will be referred to the relevant Redundancy Committee. Council will receive reports from the Redundancy Committee and in respect of any use of delegated authority. Compliance with the statutory collective consultation procedures will also apply where appropriate.
- 2.2 Notice of the anticipated expiry date is given to staff on a fixed term contract at the outset of employment. The contract will terminate as scheduled unless the staff member is informed in writing of any change.

## 3. RENEWAL AND EXPIRY PROCEDURES

- 3.1 The University will take the following approach in relation to the management of fixed term contracts.
- 3.2 No later than seven months prior to the fixed term end date the Human Resources Directorate will send the Head of School paperwork in respect of the relevant contract. Schools will, in normal circumstances, take decisions in respect of these posts within one month of receipt of these documents.
- 3.3 Access to the relevant documentation for completion by the School/Directorate is available from Human Resources Division or on the Human Resources Division website.
- 3.4 It is an essential requirement of the process that the School / Directorate hold a Contract Review meeting with the member of staff. Such meetings should be held six months prior to the known contract end date and no later than five months prior to the defined end of the contract. Where the contract duration is shorter than six months the same review meeting should be held as soon as possible after the commencement of employment.
- 3.5 On receipt of notification of the end of contract the School Representative **must** write, using the templates provided, to invite the member of staff to the Contract Review meeting to discuss the School's planned intentions with regard to the contract. The member of staff should be informed that they are entitled to be accompanied at this meeting by a work colleague or a recognised trade union representative of their choice if they so wish.

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<sup>2</sup> Continuity of service is normally a straightforward matter of fact. However there can be complexities involving seasonal or regular periodic employment and these are outlined in the procedures relating to part-time teaching staff (formerly hourly-paid teaching staff). In such cases guidance should be sought from Human Resources.

3.6 The Head of School or their nominated representative will have a number of options in respect of the contract including:

- to confirm the expiry of the fixed term contract;
- to convert the fixed term contract to an open ended contract (the normal approval process will need to be followed for all posts). Where there are any known factors which continue to affect the employment these will be outlined in the letter of appointment;
- to extend temporarily the duration of the fixed term contract for a short period where objective justification continues to apply (as outlined in 1.3 above), this will not normally be used where the member of staff has been in post for four years or more.

### 3.7 The Contract Review Meeting

At the Contract Review meeting with the member of staff concerned, the line manager should explain the School's intentions regarding the contract and the reasons for these. Both parties should sign the relevant record to confirm that the meeting has taken place. The possibility of redeployment should be discussed with the member of staff where the recommendation is that the contract should terminate. Information relating to the University's redeployment scheme is available on the HR website at (insert link). The line manager and the member of staff have a joint responsibility to explore redeployment opportunities.

3.8 Where the decision is to continue with the post on any of the basis outlined above the relevant contract paperwork will be completed and submitted to HR.

3.9 The non-renewal of a fixed term contract should only be discussed where there is a fair reason for dismissal and the reasons for the non-renewal should be made clear to the member of staff concerned at the review meeting. The School representative should complete the relevant paperwork and return it to the Human Resources Division no later than five months prior to the designated end date.

#### 3.9.1 **Staff employed to cover maternity, adoptive, research leave etc<sup>3</sup>**

The ending of a fixed term contract to provide cover for a member of staff who is temporarily absent e.g. on maternity, adoptive leave, a career break or on research leave is not a redundancy. The reason for the termination of employment is a dismissal for some other substantial reason.

If at the Contract Review Meeting, the contract is confirmed as terminating, the possibility of redeployment should be discussed with the member of staff. Information relating to the University's redeployment scheme is available on the HR website at the following link (insert link). The line manager and the member of staff have a joint responsibility to explore

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<sup>3</sup> There are five fair reasons for dismissal which include conduct, capability, redundancy, and to satisfy a statutory requirement. The fifth reason, described in legislation as 'some other substantial reason' describes a situation where an employer has a good reason for dismissing an employee which is not one of those listed above. An example would be the dismissal of an employee who was taken on as a temporary replacement for an employee who was absent for permissible reasons and where there is an expectation that they will return to their post at a future date.

redeployment opportunities. The Human Resources Division will write to the individual following receipt of the Review Record. The letter will confirm the termination of their employment in line with the requirements of the contract. Redundancy procedures and entitlements do not apply.

### **3.9.2 Staff on Grades 1 to 4 who are potentially redundant<sup>4</sup>**

If at the Contract Review Meeting, the decision is taken to terminate the contract, the possibility of redeployment should be discussed with the member of staff. Information relating to the University's redeployment scheme is available on the HR website at the following link (insert link). The line manager and the member of staff have a joint responsibility to explore redeployment opportunities. The Human Resources Division will write to the individual following receipt of the Review Record. The letter will confirm the termination of their employment in line with the requirements of the contract.

### **3.9.3 Staff on Grades 5 and above covered by Statute XV who are potentially redundant**

If, at the Contract Review Meeting, a recommendation is made to terminate the contract this will be confirmed to the staff member together with the reasons for the recommendation. The Review Record must be completed and returned to the Human Resources Division no later than five months prior to the funding/project end date. The Human Resources Division will write to the member of staff to confirm the recommendation being made and offer the opportunity to make a written submission to be considered by the Redundancy Committee.

The possibility of redeployment should be discussed with the member of staff. Information relating to the University's redeployment scheme is available on the HR website at the following link. The line manager and the member of staff have a joint responsibility to explore redeployment opportunities.

All cases recommended for termination by reason of redundancy will be considered by a Redundancy Committee which will be constituted in accordance with the requirements of Statute XV and Ordinance 12.

The Redundancy Committee will meet on a monthly basis to consider any recommendations for termination of contract. Recommendations from the Redundancy Committees will be considered by Council (or Chair/Vice Chair under the delegated authority) whose responsibility it is to approve or decline cases put before it.

Following the decision of Council the member of staff will be sent a letter confirming that their employment with the University will end on the date of expiry of their current contract unless suitable alternative employment has been obtained prior to that date.

## **3.10 Redundancy Payment**

A member of staff who has been continuously employed for two years or more and is made redundant will be entitled to receive a redundancy payment in line with the relevant scheme provisions, except where an offer of suitable alternative employment. has been

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<sup>4</sup> This also includes Knowledge Transfer Partnerships (KTP Associates) and all other staff employed on Terms and Conditions of Grades 1-4.

unreasonably refused. In considering what is suitable alternative employment factors as such as pay, status, location, hours and whether the employee can be reasonably expected to undertake the work based upon his/her skills will be included. For employees with a physical disability or health complaint the working environment will also be considered. A member of staff can refuse redeployment where the post offered is not deemed by the individual to be suitable alternative employment on the basis of one or more relevant factors. The Head of School will be required to authorise the payment on the basis of calculations provided by the Human Resources Division.

### **3.11 Appeal**

#### **3.11.1 Staff on Grades 1 to 4**

Staff have the right to appeal against any decision to terminate the contract and those who wish to take up this right may submit a request, in writing, to the Director of Human Resources which must be received within 21 days of the date of the meeting with their School Representative. On receipt of such a request the Director of Human Resources shall instruct an appropriate officer to convene an appeal to review the decision. The member of staff will be invited to attend a meeting with the appropriate officer to discuss their appeal.

The person has the right to be accompanied by a work colleague or recognised trade union representative. The decision shall be final and details of the decision will be sent to the member of staff within 10 days of the meeting.

## Appendix A

### Contract Conversion Point

|        | Scenario 1          | Scenario 2 | Scenario 3          |            |
|--------|---------------------|------------|---------------------|------------|
| Year 1 | Contract 1          | Contract 1 | Contract 1          |            |
| Year 2 | Contract 2          |            |                     | Contract 1 |
| Year 3 | Contract 3          | Contract 2 |                     | Contract 1 |
| Year 4 | Contract 4          |            |                     | Contract 2 |
| Year 5 | Contract Conversion |            | Contract 2          |            |
| Year 6 |                     |            | Contract Conversion |            |

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