

Fixed Term Contract Policy

1. Aim

The University seeks the flexibility provided by the use of fixed term contracts, but recognises that it has an obligation to provide the maximum degree of job security to its staff and in particular to seek to find suitable alternative employment for staff as an alternative to dismissing them on the expiry of their fixed term contract.

It is expected that the initial term of any fixed term contract would not normally be for a period exceeding 4 years, unless it can be objectively justified.

2. Criteria for use of fixed term contracts

Fixed term contracts can be established if they meet the following criteria:

- (a) to cover staff absence as appropriate (e.g. parental and adoption leave, long-term sickness, sabbatical leave or secondment).
- (b) short-term increase in work, may require specialist expertise.
- (c) Short term funding or external funding (where there is no reasonable foreseeable prospect of short-term funding being renewed nor other external or internal funding being available or becoming available). Where the short-term funding has already been renewed, continuing use of the fixed-term contract would need to be justified by objective reasons.

Note - The use of a and b would normally only provide objective justification for an initial use of a fixed term contract and **not** extension beyond 4 years. It is expected that the initial term of any fixed term contract would not normally be for a period exceeding 4 years, unless objectively justified.

If during the course of the employment the reason for a fixed term contract no longer exists, then the post should be considered permanent. It is not appropriate at that point to re-advertise the post, if there is an existing FTC incumbent, or there are other FTC staff within the Unit undertaking work with comparable duties and person specification.

Units are advised that details regarding the objective justification should be recorded at the start of a fixed term contract, as this may be required if there is a dispute later about the contract being temporary.

3. Bridging contracts for fixed term contract staff

In cases where staff are employed on externally funded projects or through specific strategic internally pump-primed projects, then it is often the case that named individuals may be included in follow-on bids to external funders.

In these cases, it is also common for units to negotiate the extension of an existing fixed term contract for a short period whilst the bid, in which the individual is included (for example, as a named researcher), is externally reviewed and the funder announces the outcome and activates the award.

The period from submission to award announcement and project activation can take several months and success rates also demand attention (e.g. RCUK competitive research bids 28%) when managing and planning staff resources.

As part of the institutional programme to manage staff costs, it is appropriate to establish some guidelines for the use of *bridging contracts* for staff on fixed term contracts associated with externally funded projects.

A bridging contract and the release of bridging funding should only be requested, and will only be approved, if the follow-on bid has already been submitted to an external funder(s) with the individual identified as a named researcher/project officer.

The contract extension under these guidelines must be for a maximum of six months only and would normally be less. The case for an extension must be accompanied by evidence that a clear set of revised objectives and a defined programme of work have been agreed specifically for the extension period covered by the bridging funds allocated for this purpose.

4. Fixed term contracts beyond 4 years

When an employee has been employed continuously on more than one fixed term contract for 4 years, their contract will be deemed as permanent at that point, within their current Unit at the Open University unless the following criteria exists:

- (a) The staff member's contract is funded by an external source, either fully or partly (this would normally be a research project, but could be teaching or other activities).
- (b) Where it is a requirement of the external grant provider that the funded employee is not a permanent member of the staffing establishment.
- (c) The staff member's current post is one which covers a secondment, which had been extended beyond its original term.

Where a member of staff has been on a fixed term contract for more than 4 years, extension of that fixed term contract will only be permissible in the case where:

- (a) An individual staff member is awaiting a decision on whether a bid for external funding is successful; the bid must have been made in that staff member's name. See point 3 above: Bridging Contracts for Fixed Term Contract Staff.
- (b) The staff member's contract is funded by an external source (this would normally be a research project, but could be teaching or other activities).
- (c) Where it is a requirement of the external grant provider that the funded employee is not a permanent member of the staffing establishment.
- (d) The staff member's contract is funded partly by external funding and partly by internal research funding.

Units are advised that this is what the OU considers to be reasonable objective justification. There are no specific examples of objective justification included in the legislation.

Where there is a case for an initial fixed term contract of over 4 years, successive use of fixed term contracts for more than 4 years, or the extension of a fixed term contract beyond 4 years and it meets the above criteria, a business case should be submitted to the People Hub, who will refer the case to the Group People Director (or nominee) and University Secretary (or nominee) for approval. Please contact the People Hub for advice.

5. Conversion of temporary posts to permanent

If during the course of the fixed term contract it is determined that there is a need for the work to continue on an indefinite basis, or the employee has been employed on more than one temporary contract for 4 years and there is no objective justification for the temporary contract to continue, then the post should be confirmed as permanent. See the Procedure for Converting Fixed Term Appointments to Permanent for details about making the employee permanent.

6. Termination of a fixed term contract

The ending of a fixed term contract is a dismissal in law and therefore needs to comply with University procedures on terminating a fixed term contract.

The People Hub will send a memo to Heads of Units at least six months prior to the expiry date of a fixed term contract as a reminder of the procedure to follow.

Where the reason for dismissal is redundancy and the individual meets the qualifying service criteria, a redundancy payment may be payable on expiry of the contract. The People Hub will advise the member of staff in situations where this applies.

7. Requests for reasons why the contract is temporary

Employees who have had more than one fixed term contract for more than four years are entitled to write requesting reasons why the University has not made their contract permanent. The Unit is required to reply within 21 days of the letter or the employee could bring a claim to the employment tribunal. Refer to the 'Written Reason Contract is Temporary Procedure' for how to respond.

8. Equality, diversity and inclusion

Policies are inclusive of all Open University staff, regardless of age, care experience, caring status or dependency, civil status, disability, family status, gender, gender expression, gender identity, gender reassignment, marital status, marriage and civil partnership, membership of the Traveller community, political opinion, pregnancy and maternity, race, religion or belief, sex, sexual orientation, socio-economic background or trades union membership status.

9. Useful references

Procedure for Converting Fixed Term Appointments to Permanent
Written Reason Contract is Temporary Procedure
Consultation Procedure for the non-renewal of Fixed Term Contracts