

Procedure for Converting Fixed Term Appointments to Permanent

1. Use of fixed term contracts

Fixed term contracts may only be established if they meet one of the following criteria:

- to cover staff absence as appropriate (e.g. parental and adoption leave, long-term sickness, sabbatical leave or secondment).
- short-term increase in work, may require specialist expertise.
- 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.

2. Converting fixed term contracts 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that there is a need for the work to continue on an indefinite basis, i.e. the criteria as outlined above are no longer applicable, the post must be confirmed as permanent.

The incumbent must also be confirmed as permanent in the post at this time (subject to the details below). It is not permissible to re-advertise the role as permanent or to wait until the end of the post-holder's fixed term contract and then advertise. This is a potential breach of employment legislation and will not be permitted.

The following procedure should be followed when it is determined that the need for the work is on-going:

- As part of reviewing the business case and the approval process, the Head of Unit must confirm that there are no other fixed-term candidates within the Unit carrying out similar duties. Where there are other potential candidates on fixed-term contracts within the Unit, there may be a need for an interview or other competitive process.
- There are no minimum service requirements required before the employee can be confirmed as permanent.
- If the employee has not yet completed their probationary period, the permanent appointment should be made subject to completing the balance of the normal probationary period for that staff category.
- The following must be provided to the People Hub prior to an individual being advised, and their contract being amended to permanent:
 - (i) Authorised change of circumstance on the system;
 - (ii) Confirmation from the Head of Unit that there are no other suitable candidates in the sub-unit carrying out similar duties (as in 4.2) above). This may be noted as part of the authorisation of the business case by the Head of Unit on the system or by separate memo.

When the People Hub is satisfied that the resource has been approved and the individual meets the criteria, the Unit will be notified and the contract of employment will be issued accordingly. **No notification of conversion to permanence may be given to the individual by the Head of Unit until this confirmation has been received.**

3. Successive fixed term contracts beyond four years

Where an employee has been continuously employed on successive fixed term contracts for more than four years with the University (not just that particular Unit). The employee will be deemed to be a permanent employee, unless employment under a fixed term contract can be objectively justified. The following sets out some possible examples of such objective justification:

- 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. This is known as 'bridging' and provides flexibility to allow a fixed term contract employee continued employment while the outcome of the bid is being determined. It is expected in such cases that bridging will be for a period not exceeding 6 months.
- 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).
- Where it is a requirement of the external grant provider that the funded employee is not a permanent member of the staffing establishment.
- The staff member's contract is funded partly by external funding and partly by internal research funding.
- The staff member's current post is one which covers a secondment, which had been extended beyond its original term.

In this case, it is not necessary to consider other fixed term candidates undertaking similar work within that Unit before the permanency can be confirmed. In such cases, it will be still necessary to initiate a change of circumstances in the system, so a contract confirming permanency can be issued.

4. Conversion of fixed term secondments and staff placements to permanent

The above policy does not apply where permanent staff have temporarily taken on another role in another Unit, on a fixed term basis and where at the end of this period they will return to their permanent substantive role.

In such cases, where the requirement for a role which was initially covered by secondment or placement does become permanent, then the incumbent may be confirmed as permanent in this role, provided the following criteria are met:

- The initial staff placement or secondment was advertised at least internally to the Open University and the incumbent took part in a competitive selection process for the role.
- The incumbent's performance in the role has been satisfactory and they are not under any disciplinary action.
- There are no other fixed term contract staff undertaking the same or similar roles approaching expiry of their contract (i.e. who have received their notice letter) within that Unit. Where there are other potential candidates on fixed-term contracts within the Unit, there may be a need for a further interview or other competitive process.

As the incumbent is substantively a member of the permanent staff, a Unit is not obliged to confirm the incumbent in the role, unlike the situation with fixed term contract staff. This should be made clear to the secondee from the onset.

5. 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.

5. Useful references

Fixed Term Contract Policy