



University of
St Andrews

Fixed term contracts – briefing paper for the principal investigators and line managers

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1. Introduction

1.1 Fixed terms contracts are widely used in academia, primarily for research employees who will be with the institution for a specific period however, there can be other reasons which can be classified as follows:

- For a specific piece of work or event;
- To cover a period of leave (maternity, long term sickness absence, etc.);
- The post is a clearly defined training or career development position i.e. a secondment.

2. Legislation

2.1 Individuals employed on fixed term contracts are protected by the Fixed Term Employee (Prevention of Less Favourable Treatment) Regulations 2002; this means they should be treated the same as those employees on standard contracts for the purposes of salary, training and most other terms and conditions of employment including any redundancy process.

2.2 Legally, the expiry of a fixed term contract is classified as a dismissal. The University therefore needs to be able to demonstrate that it has followed a fair and transparent process, or the dismissal could be deemed automatically unfair at an Employment Tribunal, provided the individual has the requisite continuity of service i.e. 2 years. An individual would not be able to make a claim for unfair dismissal if they have less than 2 years' service. In certain circumstances dismissals can be automatically unfair and employees will not be required to have 2 years' service, these include dismissals for reasons related to protected characteristics as defined by the Equality Act 2010 and include pregnancy or maternity leave, trade union membership, whistleblowing, reporting health and safety risks or assertion of statutory rights.

3. Ending a fixed term employment contract

3.1 The reason for dismissing most employees on fixed term contracts will be redundancy.

3.2 The temporary nature of external funding in itself **will not** be a valid reason for dismissal or redundancy i.e. this cannot be the reason given for the post ending even if that person is named on the grant proposal.

3.3 In order to avoid any claim for unfair dismissal you should follow the procedure outlined below at all times in addition to the [Fixed Term guidance for conducting redundancy consultation meetings](#). Whilst this may seem onerous and overly cautious, it will help prevent the University incurring costly legal fees defending a claim and any possible award to an individual.

4. Procedure

4.1 HR will notify you 5 months prior to the individual's contract expiring.

4.2 You should consider whether the employee is doing similar work to others within the team or School and whether they should be part of a pool of employees who would need consulted with as part of a wider redundancy process.

4.3 If an individual's funding is coming to an end that does not necessarily mean they should be the one to be dismissed and the above will apply.

4.4 Upon receiving the email from HR as highlighted in 4.1, the PI / manager should arrange to meet with the employee within **6 weeks**. You should offer the employee the right to be accompanied at the meeting by either a Trade Union representative or work colleague.

4.5 **At the meeting the PI / manager should:**

4.5.1 explain the reason for the dismissal **i.e. that the need for the work has ceased or diminished in their particular area of expertise or that the piece of work they have been employed to do is coming to an end**; If you are unsure about which of these reasons is applicable please speak to your [HR Business Partner](#) for further advice prior to the meeting.

4.5.2 The expiry of external funding is not a reason for dismissal in itself. The meeting should also cover ways of avoiding the redundancy by seeking the views of the employee such as:

- whether they wish to be considered for redeployment to another post elsewhere within the University (the employee is entitled to join the University's Redeployment Register where they will be informed of suitable vacancies prior to them being advertised). Your HR Business Partner can provide you with further guidance on this process;
- suitable alternative employment/future grants in pipeline;
- career and CV development for employee;
- the right of appeal.

4.6 Following the meeting **you** should confirm in writing the reason for the dismissal, the termination date and the right of appeal to the Director of Human Resources. **This is a legal requirement.** Please contact your HR Business Partner if you are unsure about what to include in the letter. A copy of this letter must be sent to Human Resources. A letter template can be located in Appendix A of the [Fixed Term guidance for conducting redundancy consultation meetings](#).

5. **Important information**

5.1 Should further funding to extend the work the individual is doing become available in the short term (or it is in the process of being approved) then bridging funds between contracts may be possible. Further information about this procedure can be found on the [Bridging Fund](#) document.

5.2 Please also note that redeployment is not always possible when the individual holds a visa to work in the UK. Please contact Human Resources if you are unsure.

5.3 If the employee has two years' service at the expiry date of the fixed term contract and the University has been unable to source an alternative position for them, then they will be entitled to a statutory redundancy payment payable from the School's (or Unit's although this is less common) salary budget.

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1.0	Migration of policy to the Governance Zone	Published	Lisa Stewart, HR Officer	04/07/2019
1.1	Change to classification from internal to public.	Published	Lisa Stewart HR	12/11/2019
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