

Procedures

Use of Fixed-Term Contracts Policy

PROCEDURES

HERIOT-WATT UNIVERSITY

**PROCEDURES TO SUPPORT THE POLICY ON
THE USE OF FIXED TERM CONTRACTS**

CONTENT

Section		Page
1	Introduction	x
2	Procedures for handling the expiry of fixed term contracts	x
3	Further help and advice	x
4	Definitions	x
5	Procedures version and history	x

PROCEDURES

1. INTRODUCTION

These procedures should be read in conjunction with the University's Policy on the Use of Fixed-Term Contracts.

2. PROCEDURES FOR HANDLING THE EXPIRY OF FIXED TERM CONTRACTS

The Administrative Arrangements

The University employs a significant number of fixed term employees and ensuring that we have procedures in place which comply with our legal obligations can be a sizeable and difficult task. The arrangements described here are designed to provide meaningful and practical help and to minimise the burden on Schools/Institutes/Services.

HR operate a reminder system whereby Schools/Institutes/Services are advised on a monthly basis of all fixed term contracts which are due to expire in the coming 6 months.

The procedures detailed in this document apply only to staff with the relevant service qualification of 1 year and 51 weeks (or 51 weeks, if recruited before 6 April 2012) by the time their contract is due to expire.

HR will write to these employees 12 weeks before their contract is due to expire (unless a decision has already been advised that the contract will be extended or made open ended). This letter is copied to the School/Institute/Service. Although we know that the majority of contracts are extended or made open-ended, by writing to everyone, we ensure that no-one is missed.

NB: Managers have a responsibility to ensure that any fixed term contract coming to an end is managed efficiently, fairly and with due care. If the fixed term employee is not covered by the procedures in this document, managers should, as a minimum, confirm to the employee (and to HR) whether the contract is going to expire on the due date or is to be extended.

What are the Responsibilities of the School/Institute/Service?

Schools/Institutes/Services should ensure that any of their staff with day to day responsibility for fixed term employees are aware of the arrangements contained in this procedure and know who within their School/Institute/Section has responsibility for administering the procedures i.e. the nominated contact with whom HR liaises regarding impending expiry of contracts.

Specifically, the University has a legal obligation to consult with each fixed term employee prior to the expiry of their fixed term contract and to explore options for extension and redeployment with them. It is the responsibility of the School/Institute/Service to carry out this consultation by meeting with those employees.

It is important that the various stages of this procedure are carried out within the prescribed timescales to allow the University to meet its legal obligations. If they are not, then the School/Institute/Service may be obliged to extend the employee's contract for an appropriate period to allow adequate time to carry out the necessary consultation process

Where fixed term contracts are extended, the arrangements contained in this

procedure will also apply in relation to the revised expiry date of the contract. Fixed term contracts should not normally be extended by periods of less than 6 months unless a short-term extension is required to complete a time-defined activity or project, but where this is unavoidable, particularly where successive short term extensions are given, advice should be sought from HR regarding how to continue to meet our legal obligations in respect of the impending expiry of the extension to the contract.

As soon as the School/Institute/Service know that a contract is to be renewed, the usual "approval for extension" form should be forwarded to HR without delay.

Arranging the Meeting

It is for the School/Institute/Service to decide who will meet with the employee (i.e. the nominated representative) but it would normally be either the Line Manager/Principal Investigator or the Head of School/Institute/Service.

The nominated representative must write to the employee, inviting them to the meeting using template letter FT1 (see below for location of template letters). This letter must state the reason for the impending end of contract and typical reasons are listed on the template. If the situation is not typical, then advice should be sought from HR before writing to the employee.

The meeting should be held at least 6 weeks before the employee's contract is due to expire and the employee should be given at least one week's notice of the meeting. This meeting **must** be held even if there is a possibility that the contract may be renewed but where the final decision remains outstanding at the 6 week stage.

(Note that if the employee has more than 4 years' service, this meeting must be held at an earlier stage to allow for a longer period of notice. For each year of service over 4, the meeting should be held 1 week earlier than the standard timescale. So, for example for 5 years' service, the meeting should be held at least 7 weeks before the contract is due to end, and for 6 years' service it should be held at least 8 weeks before, and so on.)

The employee has the right to be accompanied by a Trade Union representative or work colleague. Ideally, the employee should confirm if they intend to bring anyone with them and who that person is. Schools/Institutes/Sections should contact their HR Partner if they would also like someone from HR to attend the meeting to provide advice and guidance on the process. It is recommended that anyone holding this meeting for the first time should talk to their HR Partner beforehand.

If, at the stage of holding the meeting, there is still a possibility that the contract may be extended (e.g. the outcome of a funding request is not yet known) this should be discussed with the employee, but it must also be explained that the procedures have to be followed on the basis that the contract is ending. If subsequent to this meeting a decision is made to extend the contract, HR should be advised without delay so that the letter confirming expiry of contract can be withdrawn.

Re-arranging Meetings

If the employee or nominated representative is genuinely unable to attend the meeting, for example due to illness, a reasonable alternative date must be offered. If the person the employee has chosen to accompany them cannot make the date of the meeting then the employee should propose another date and time which should be no more than five days later than the original date. If the employee fails to attend the re-arranged meeting there is no need to set a further meeting date and the confirmation of notice letter can be issued by HR. However, in such a case advice should be sought from your HR Partner before writing to the individual.

At the Meeting

At the meeting, the reason why the contract is coming to an end should be discussed. The employee should have an opportunity to respond to the situation and put forward ideas which might influence the decision to terminate the contract. If no such issues are raised, then the decision to terminate will be confirmed. If the employee presents information at the meeting which casts doubt on the validity of the reason for terminating the contract (e.g. if the employee considers that they have been unfairly selected for redundancy), then further information/clarification will have to be sought before confirming the position to them. If further investigation is required this should be carried out as quickly as possible with a view to completing this stage of the process within a maximum of 5 days from the date of the meeting. The nominated representative should keep a written record of what was discussed and agreed at the meeting and this should be retained in accordance with the Data Protection Act 1998.

Suitable Alternative Employment

This is an important area to be considered when someone's contract is coming to an end, and it must be looked at in detail. It would be impossible for nominated representatives to know about all vacancies and potential vacancies within the University, however, they would be expected to find out about if there were going to be any suitable vacancies within their own School/Institute/Service. If a post is identified that may be suitable, then HR should be contacted immediately, ideally before the post is advertised. If there are none, then the employee should be invited, at the meeting, to email their CV to HR so that alternative employment opportunities elsewhere in the University can be explored. Where alternative employment opportunities are identified, standard recruitment procedures should normally be followed i.e. if the employee wishes to apply for the vacancy, their application would be considered along with others, against the selection criteria for the post. In certain circumstances, e.g. where the reason for the expiry of the contract is redundancy, the University's Redeployment Policy will apply.

At the meeting, the employee should also be advised to check University vacancies on the University's website.

After the Meeting

Immediately after the meeting has taken place, the nominated representative must complete either Section B or C of template form FTX, have it countersigned by the Head of School/Institute/Service and then forward it to HR with a copy of the FT1 letter (which invited the employee to the meeting). In order for adequate notice to be given to the employee, it is important that this form is forwarded no later than the day after the meeting. The only exception to this would be where further investigations were being carried out as a result of issues which arose at the meeting. In this case the FTX form should be completed and forwarded as soon as those investigations are complete, but no later than 6 days after the original meeting.

On receipt of the FTX form, HR will write to the employee confirming the decision not to renew. Copies of the FTX form and associated letters will be retained on the employee's personal file.

Templates

The FT1 template letter and the FTX form can be found at the HR website <http://www.hw.ac.uk/services/human-resources/human-resources-forms.htm>

Summary Of Actions Required

S/I/S = School/Institute/Service

WHO	WHAT	WHEN
HR	Send report to School/Institute/Service listing fixed term contracts due to expire in next 6 months	Monthly
HR	Write to fixed term employee re contract end date	12 weeks before expiry
S/I/S	Decide whether contract will expire or be renewed	12-8 weeks before expiry
S/I/S	Write to employee inviting them to meeting	8 weeks before expiry*
S/I/S	Explore suitable alternative employment options	Before date of meeting
S/I/S	Hold meeting with employee	6 weeks before expiry*
S/I/S	Confirm decision to HR (i.e. to renew or not renew)	1 day after the meeting**
HR	Write to employee confirming decision	4 weeks before expiry*

*for staff with more than 4 years' service, add 1 week for each year of service over 4

**if issues arise at the meeting which require further investigation these must be addressed and the decision advised to both the employee and HR

4. FURTHER HELP AND ADVICE

Human Resources <http://www.hw.ac.uk/services/human-resources/about-us.htm>
for queries regarding this policy and procedure

5. DEFINITIONS

Redundancy

Redundancy occurs where

- the employer has ceased, or intends to cease, to carry on the business for the purpose of which the employee was employed; or
- the employer has ceased, or intends to cease, to carry on the business in the place where the employee was so employed; or
- the requirements of the business for employees to carry out work of a particular kind have ceased or diminished or are expected to cease or diminish; or
- the requirements of the business for employees to carry out work of a particular kind, in the place where they were so employed, have ceased or diminished or are expected to cease or diminish.

There is not a redundancy if the original job remains. For example, where an individual has been employed on a fixed term basis to cover the work of an existing employee (e.g. for long-term sickness, secondment, maternity leave), the fixed term employee is therefore not redundant at the end of his/her contract.

6. PROCEDURES VERSION AND HISTORY

Version No	Date of Approval	Approving Authority or responsible officer, as appropriate	Brief Description of Amendment
V.1.1	7 May 2013	Secretary's Board	These procedures were previously contained in the policy "Fixed term contracts – handling the expiry of" which has now been subsumed into the updated policy on "The use of Fixed Term Contracts"

PROCEDURES