

# The Global Employment Framework Policy Statement

Consolidated July 2022

Approving authority:	University Executive
Consultation via:	CJNCC, GOE
Approval date:	July 2022
Effective date:	July 2022
Review period:	Five years from date of approval unless legislative change required or contract terms change
Responsible Executive:	Global Director of HR
Responsible Office:	Human Resources

POLICY

# HERIOT-WATT UNIVERSITY

## The Employment Framework – Policy Statement

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POLICY

## 1. INTRODUCTION

Heriot-Watt University seeks to engage all members of the workforce in the most appropriate way and to do so fairly and transparently, providing as great a level of commitment and clarity as possible. The University utilises a range of different contract types reflecting the fact that in some circumstances and areas of activity the levels and frequency of work are variable and sometimes unpredictable.

## 2. PURPOSE

This Policy Statement sets out the range of employment arrangements utilised by the University.

It is presented to confirm the approach adopted by the University and the reasons why different arrangements are in place, including those arrangements that may be less common in other sectors.

## 3. KEY PRINCIPLES

The University aims to employ staff on an open ended basis in every appropriate circumstance. However, the nature of the University sector, its work and the funding that helps pay for the University's research and staffing costs does not always make this possible.

Where there is a sufficiently meaningful and predictable level of regular work the University will typically offer an employment contract which may be fixed term or permanent/open ended, full or part-time and will provide as much security of employment as possible.

Whilst the nature of our work does require levels of flexibility in the workforce, there is a need to continually review ways of providing as great a level of commitment and clarity as possible.

Where the volume of work is not at a level to justify a regular employment contract and/or where individuals can choose whether or not to undertake the work offered, the University will typically offer the work on a non-employment basis but a formal engagement as a "worker". Such workers (sometimes known as "casual" or adjunct staff) are not employees.

On that basis, the University is committed to these Key Principles.

1. The need to recognise the approach adopted for externally funded, mostly research related positions.
2. The increasing use of open-ended contracts (with a funding end date) for staff who are appointed on contracts externally funded with an end date
3. The commitment to keep the use of casual worker arrangements under careful review to ensure that these are not being used inappropriately and that the university fulfils its commitment to offer as much job security as possible.
4. Recognition of the importance of providing The University's post-graduate students with the opportunity to carry out tutoring and demonstrating as part of their early career development and to offering other ad-hoc work to undergraduate students where appropriate to support the operations of the University.
5. Commitment to paying at least the Living Wage and matching hourly rates to our grade and spine structure in line with the evaluation of the work being carried out where the work is offered on a casual or adjunct basis.

#### 4. APPLICATION OF CONTRACT TYPES

The majority of staff at the University are engaged on fully open ended or permanent contracts either full or part-time. A number of these are linked to external funding and hence have a funding end date associated with them. Fixed term contracts are used for short-term funding or project work as well as for temporary cover such as maternity or sickness; however, as set out in the Key Principles, we are increasingly using open-ended (with a funding end date) for those staff whose research or other work is paid for through external fixed-funding.

All staff in Malaysia are full-time and this is also normal practice in Dubai.

In the UK there are far more part-time workers either associated with part-time roles or based upon individual flexible working requests.

#### 5. CONTRACT TYPES

##### **Open Ended or Permanent**

The University is committed to offering Open-ended contracts when appropriate and possible. For the vast majority of long-term roles this will be the contractual norm. These contracts are for an indefinite period with no specified end date since a formal retirement date no longer applies. Where there is a reasonable expectation that a role will be ongoing, this will be the standard employment approach.

Where an individual is employed under a visa that limits the time an employee retains a right to work in the UK, the University will still typically offer an open-ended contract where the role is suitable for such. However ongoing employment would be dependent on the individual obtaining continuation of their right to work, such as an extension to their visa or obtaining Settlement (Indefinite Leave to Remain).

For colleagues based in Dubai the changes to the labour laws introduced from February 2022<sup>1</sup> mean that roles that would previously have been permanent are offered on a three year rolling basis.

In Malaysia fully open ended contracts are used, as in the UK, however, unlike in the UK, the contract contains direct reference to a retirement age when employment would typically come to its natural end.

##### **Open-ended Contracts (with a funding end date)**

Where a role is dependent on fixed term funding (most typically linked to research activity) with a clear anticipated end date it is recognised that it is beneficial for this to be transparent to all parties.

Where the funding is for a period of fewer than 18 months, a fixed-term contract will typically be offered (see below).

Where funding is for a longer period an open-ended contract will be offered.

The University, will however, clearly signal the potential for the employment to be terminated if and when the funding comes to an end. In such circumstances the university will consult with the individual and act to support them in seeking redeployment. The use of such open-ended contracts is designed to continue the

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<sup>1</sup> Federal Decree-Law no. 47 of 2021 replaced unlimited contracts with limited contracts of a duration not exceeding three years for the private sector. The University balances this requirement with its aim to provide longer term commitment to colleagues.

University's aim that open ended contracts be the contractual norm rather than successive or extended fixed term contracts. The terms and conditions and rights of someone on such a contract are exactly the same as an employee on a standard open-ended contract.

### **Fixed Term Contracts**

The University's use of Fixed Term contracts is governed by the Policy on the Use of Fixed Term Contracts. They are used where the requirement for the role can clearly be demonstrated to be uncertain or finite. Most commonly they are used:

- To provide temporary cover for situations such as maternity or other parental leave and long term absence or internal secondments
- In relation to one-off projects
- Where there is a genuine lack of clarity on whether a particular activity will be of an ongoing nature

Fixed term contracts may in some circumstance also be offered to colleagues engaged in tutoring or short-term teaching. Post-graduate students engaged in such roles as Teaching Assistants and Demonstrators are typically engaged as casual workers (see below) but consideration will be given to offering a fixed term contract when the level of predicted activity and mutual commitment merits engagement as an employee rather than as a worker.

As with open-ended contracts, Fixed Term Contracts may be offered in a variety of arrangements including full-time, part-time, term-time or on an average hours basis. Those engaged on Fixed Term contracts receive the same terms and conditions as those on open-ended arrangements including enrolment into the relevant pension scheme, with some elements, such as annual leave, allocated on a pro-rata basis related to the actual contractual period and hours.

In the UK, if an engagement on a Fixed-Term contract extends beyond three years the University will actively consider extending the employment on an open-ended basis subject to there being at least six months' work and/or funding remaining beyond the contract end date and there being no objective, justifiable business reason why an open ended contract cannot be offered.

The University also abides by UK legislation requiring fixed term staff who have more than four years' continuous service (except where this relates to a first contract) to be offered open ended contracts. However, there may be (limited) circumstances where the University can objectively justify the employee's continuing engagement on a fixed term basis.

In Malaysia, whilst the employment framework is slightly different to that in the UK, the practice is broadly similar, though fixed term contracts will also be used for individuals who are employed via an employment visa with the contract length aligned to their right to work.

In Dubai, as noted above, all employment contracts are now offered for a maximum of three years, renewable by mutual agreement, in line with local labor laws.

### **Fixed Term Secondary Appointments**

The University has a number of leadership roles which are filled on a Fixed Term basis, for example Executive Dean or Deputy Principal/Vice Provost. These are typically offered as Secondary Appointments (either full or part-time) and in the vast majority of cases the underlying employment contract will be open-ended in nature.

### **Casual Worker Arrangements/Adjuncts**

The University offers work on an hourly paid casual worker basis where the level of work is insufficient or too irregular to justify an employment contract.

The University has full discretion whether to offer any work to the individual and individuals can equally choose whether or not to undertake the work offered. In UK legislation terms there is no mutuality of obligation and workers are not legally defined as employees.

Payment for hours worked is determined by the nature of the work undertaken for which an appropriate hourly rate is paid. This is calculated in accordance with the University's pay and grading structure and as such is typically based upon generic, graded job descriptions. Most commonly such arrangements are used for graduate teaching assistant and demonstrator type roles.

Payment for hours worked are processed via monthly timesheets<sup>2</sup>. Where the level of work to be offered appears sufficient in both volume and regularity to justify an employment contract, consideration will be given to offer the work on a part-time, fixed term employment basis.

In Malaysia and Dubai such members of the extended workforce are more commonly known as Adjuncts.

The University does not use zero-hours employment contracts.

### **Use of Agency, Contractors or “Self Employed”**

As stated above, the University's preferred method of appointing staff to carry out work is via direct employment on a fixed term or open-ended contract of employment; or under a casual/adjunct “worker” relationship.

However, there may be circumstances where it is more appropriate to meet the needs of the business to engage someone on a short-term or ad hoc basis through an agency, or as a service provider.

The circumstances in which this would be considered are likely to be where all other options are unviable or not practicable (e.g. for very specialist work for a short period of time).

The University has developed UK guidance on determining the employment and tax status of individuals who will be providing services to the University. The outcome should then be used to inform how the individual is engaged and paid taking due cognisance of the IR35 requirements.

In both Dubai and Malaysia a number of Adjunct colleagues who, in the UK, would be engaged as casual workers are, in effect engaged directly on a self-employed basis.

### **Academic Job Family**

The final “contractual variation” relates to the academic community and the career track upon which individuals are employed. Currently the University has three primary categories namely, Research and Teaching, Teaching and Scholarship and Research Only<sup>3</sup>. There are additionally a small number of staff engaged on Teaching Only contracts, primarily engaged within the foundation programmes.

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<sup>2</sup> via the ERP system.

<sup>3</sup> The University is also developing a Knowledge Exchange career pathway for Grade 10 Professors

**6. RAISING CONCERNS**

Any individual who has questions about their contract or terms of engagement may raise these in confidence with the HR department in their location. If they believe they are on a contract or engagement not appropriate to their circumstances, they should first discuss this with their line manager who will then raise this with HR to consider whether a change would be appropriate in line with the principles set out in this document.

**7. MONITORING AND EVALUATION**

The University HR department runs regular reports on the number and types of contracts offered, to ensure we are maintaining our Key Principles as set out above.

The Vacancy Management Group meets on a fortnightly basis and approves each request for recruitment, including approving the appropriate contract to be used.

Statistics are provided as part of the Athena Swan Action Plan and reports to the Combined Joint Negotiating and Consultation Committee (CJNCC) on the use and breakdown of various types of contract in the UK.

**8. RELATED POLICIES, PROCEDURES AND FURTHER REFERENCE****Policies**

This document underpins all terms and conditions offered as part of our employment package.

All our Policies may be found on this page [HR Policy Web-Page](#). Set out below are some specific policies directly relating to the types of contracts referred to.

- Guidance on Engaging Casual Workers and Ad Hoc Staff
- Guidance on Appointment of Self-Employed, Off-Payroll Workers
- HWU Youth Employment Principles and Practices
- Fixed Term Policy and Procedure

**Further reference**

Academic, Research and Professional Services Role Profiles may be found on the [HR Policy Web Page](#) under Reward and Remuneration – Role Profiles.

**9. DEFINITIONS**

<b>Full Time</b>	Nominal 35 hours per week (unless Non-Standard, see below) (37.5 for ORIAM staff).
<b>Part-Time</b>	A contract which is less than 35/37.5 hours per week
<b>Open Ended</b>	A contract which does not have a defined end date
<b>Fixed Term</b>	A contract which specifies an anticipated end date
<b>Open Ended Fixed Funding</b>	A contract in which the current funding is for a finite period of time with a commitment to continue to employ beyond the end of the funding where practicable
<b>Compressed Hours</b>	Where a standard 35 hour week is worked in fewer than five days
<b>Non-Standard Contract</b>	Where the hours worked do not fit the “standard” 35-hour 5-day week, e.g. Trades Staff and Safeguarding Officers
<b>Secondary Appointments</b>	An additional contract for a fixed period to reflect a second role such as Executive Dean or Deputy

	Principal, which is time-limited and after which the individual returns to their substantive (original) role
<b>Casual</b>	Someone offered irregular or very short term hours as a worker. There is no obligation on either party to offer or accept the work
<b>Adjunct</b>	Another name for casual
<b>Self-Employed</b>	Someone who provides their services direct to the University and invoices for their work
<b>IR35</b>	A specific type of Self-Employment
<b>Agency</b>	Where a third party company provides an individual to carry out the work and invoices The University; the third party then pays the individual.

**10. FURTHER HELP AND ADVICE**

For further information please contact the [HR helpdesk](#), identifying which location you are enquiring about.

**11. POLICY VERSION AND HISTORY**

<b>Version No</b>	<b>Date of Approval</b>	<b>Approving Authority</b>	<b>Brief Description of Amendment</b>
V. 1	25.07.22	GOE	Policy Statement bringing together information about how the University employees and engages staff across our Global Locations

POLICY



