



THE UNIVERSITY *of* EDINBURGH

## Managing the Move from Fixed Term to Open-Ended

### Information for University of Edinburgh Staff and their Managers

From 10 July 2006, under the **Fixed Term Employees Regulations (Prevention Of Less Favourable Treatment) Regulations**, any member of staff on a fixed term contract who has four years continuous employment (from 10 July 2002) and has had his/her contract renewed at least once (or been re-engaged on a new FTC) may be deemed open-ended.<sup>1</sup> unless there is objective justification for the continuing use of an FTC. Staff will have certain legal rights, including the right to request a written statement confirming the nature of their contract.

The University of Edinburgh has developed with the trades unions a project which will manage the move from fixed term contracts to open-ended contracts. We jointly intend that by reviewing all relevant cases in a systematic way, many staff can have their open-ended status confirmed in the course of 2006, while others, for whom a FTC remains appropriate, will have a clear understanding of the reasons and the opportunity to have their case reviewed. While staff continue to have the legal rights contained in the legislation, we commend this internal process to all University staff and their managers.

If you would like to read a full copy of the agreement, including the revised list of reasons when an FTC may be used, this can be found at Fixed Term Contracts.

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<sup>1</sup> Described as permanent within the legal language of the Regulations.

In summary, over the coming months, the following process will take place:

- i. **Identifying the pool.** The College/Support Group HR teams will identify, from records, the entire pool of staff who meet the requisite conditions to potentially be deemed open-ended: those with four years continuous employment and a contract renewal or re-engagement.
- ii. **Six years' service?** A desk exercise will be undertaken to review those staff within the pool who have 6 or more years' service. This review, by managers in conjunction with HR, will adopt a broad brush approach in the expectation that most staff concerned will convert to open-ended contracts. Anticipated exceptions would be few but likely to include clinical training appointments or where the member of staff cannot commit to an open-ended appointment because of immigration/work permit restrictions or where there is a strong probability of redundancy in the near future. Outcomes of this exercise will be shared with the unions. Target completion date: end September 2006.
- iii. **Secure funding stream?** A similar desk exercise will be undertaken to review those staff within the pool, with four or more but less than six years' service, who are fully funded from a known and secure funding stream such as SFC core funding. Outcomes of this exercise will be shared with the unions. Target completion date: end September 2006.
- iv. **Other staff with requisite service?** After the first two sweeps above, there will remain many staff to be considered who have more than four but less than six years' service and are on their second or subsequent contract. A further desk based exercise will be undertaken by the manager in conjunction with HR to identify which of these staff should convert to an open-ended contract. There are a number of potential reasons why a fixed term contract might still be considered appropriate: a list of the potential reasons is available, along with the full agreement mentioned above, at Fixed term Contracts. The outcomes of this exercise will be shared with the unions. Target completion date: end November 2006.
- v. **The right of review.** Staff who meet the service and contract criteria (four years continuous employment and a contract renewal or re-engagement) but who are not confirmed as being on an open-ended contract by the desk exercises referred to above, will have the right to ask that their case be reviewed by a joint trade union/management panel. The panel(s), which will comprise experienced people who receive joint management/union training, will consider written submissions from both the manager and the member of staff concerned. We note that staff will not, by participating in this internal review, lose the right to pursue the matter further- to an Employment Tribunal. But we are confident that most staff concerned will be satisfied that their

case has been fairly and objectively reviewed by a joint panel and, where they remain on a fixed term contract, that they have a clear understanding of the reasons.

- vi. Ongoing process.** Of course, as time passes, staff with shorter service will achieve the service required to meet the criteria for consideration in the same way as the current cohort. The University will therefore embed ongoing processes so that successive cohorts can be reviewed as they achieve the requisite service.
- vii. Recruitment and use of fixed term contracts.** Work will continue within HR to monitor recruitment processes to review the circumstances in which a fixed term contract is offered. Open-ended contracts will be offered except in circumstances where the use of a fixed term contract can be objectively justified.
- viii. Fair treatment of fixed term staff.** Though inevitably some staff will be disappointed that the University does not, by means of this review process, regard them as open-ended, we take this opportunity to reassure *all* University of Edinburgh staff, irrespective of length of service or contractual status that the University seeks to treat them fairly in all aspects of terms and conditions of employment.

In particular, both staff and their managers are reminded that the law requires that a member of staff on a fixed term contract must not be treated detrimentally in relation to a comparable permanent member of staff. So while the review which we are undertaking will be important to assist the University and our fixed term staff in clarifying their contractual status, those who continue to be deemed fixed term should not expect to be treated any less favourably in their working lives as a result.

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**Review**

This information was published by Human Resources in July 2006. This information will be reviewed by 31 July 2024.

**Alternative Format**

If you require this document in an alternative format please contact [HRHelpline@ed.ac.uk](mailto:HRHelpline@ed.ac.uk).