



Fixed Term and Temporary Contract Policy

Version 1.1

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Contents

Section	Page
Policy Statement	3
1. Scope	3
2. Roles and Responsibilities	3
3. Equality and Diversity	3
4. Introduction	4
5. Definitions	4
6. Use of Fixed-Term and Temporary Contracts	4
7. Extending a Fixed-Term or Temporary Contract	5
8. Terminating a Fixed-Term or Temporary Contract	5
9. Successive Fixed-Term Contracts	6
7. Monitoring Compliance with and Effectiveness of this Policy	6
8. Review	6
Appendices	
1. Fixed-term and temporary contracts process	7
2. Criteria for redundancy payments	8

POLICY STATEMENT

The Trust's vision is seeking excellence through inspirational leadership, teamwork, innovation and challenge and we work to ensure that all of us achieve our best. Our values are:

- Working together for students
- Generating ideas and sharing outstanding practice
- Promoting independence and interdependence
- Encouraging questioning, feedback and challenge

The Trust has four guiding principles:

- Believe in the team
- Focus on learners to drive decisions
- Keep it simple, do it right
- See it, own it, make it happen

Whilst the majority of staff working in the Trust are employed on a permanent basis, the Trust offers a range of employment contracts to suit a range of circumstances. Fixed-term and temporary contracts are offered where the demand is temporary in nature (e.g. maternity cover) or the funding is temporary.

1. SCOPE

This policy applies to all staff employed by The Education Alliance on a fixed term or temporary basis.

2. ROLES AND RESPONSIBILITIES

The **Trust Board** is responsible for ensuring this policy is applied fairly and consistently across the Trust, monitoring the effectiveness of the policy.

The **CEO and Executive Principal** are responsible for ensuring that staff and others adhere to this policy.

The **Human Resources Department** is responsible for ensuring that fixed-term and temporary employees are aware of this policy and that the policy is implemented fairly, transparently and equitably.

Leaders and managers must ensure they implement this policy fairly and equitably, seeking guidance, clarification and support as and when required.

3. EQUALITY AND DIVERSITY

The Education Alliance is committed to:

- Promoting equality and diversity in its policies, procedures and guidelines
- Delivering high quality teaching and services that meet the diverse needs of its student population and its workforce, ensuring that no individual or group is disadvantaged.

4. INTRODUCTION

The Trust recognises the valuable contribution every member of staff makes and it is committed to ensuring fixed-term and temporary staff are not treated less favourably than permanent employees, unless circumstances objectively justify a different approach. The Fixed-term Employees (Prevention of Less Favourable Treatment Regulations 2002) afford fixed-term or temporary employees important rights that have an impact on the use of such contracts, which include:

- The right not to be treated less favourably than a comparable employee on a permanent contract in respect of pay, contractual terms and conditions, the opportunity to receive training or be subjected to any other detriment on grounds of status as a fixed-term or temporary employee.
- The right to a statutory redundancy payment where the reason for the expiry [i.e. dismissal] of a fixed-term or temporary contract is due to redundancy. This does not normally apply if the dismissal is for 'some other substantial reason' (e.g. brought in to provide temporary cover, normally for less than 2 years).
- Limiting the use of successive fixed-term contracts to no more than 4 years, after which a fixed-term or temporary contract should become permanent, unless the continued use of a fixed-term contract can be justified on objective grounds.
- The right to be informed and have access to information regarding permanent employment opportunities within the organisation.

5. DEFINITIONS

A **fixed-term contract** is normally issued when the end date or length of the contract is known.

A **temporary contract** is normally issued when the end date or length of the contract is unknown, however, the contract should indicate the anticipated length.

6. USE OF FIXED TERM AND TEMPORARY CONTRACTS

Fixed-term or temporary contracts will generally be offered where:

- it is known in advance that a particular job will come to an end on a specific date;
- the employment is for the purpose of completing a particular task;
- the employment is for the purpose of replacing an employee who is to be absent from work for a period of time (for example on maternity leave); or
- the post is dependent on external funding and it is thought likely that the funding will be available for only a temporary period of time.

Any employee engaged on a fixed-term or temporary contract will be entitled to terms and conditions of employment that are not less favourable than the terms and conditions of a comparable permanent employee, unless there is an objective reason for offering different terms. A comparable permanent employee is someone who is engaged in the Trust's workforce, in the same or broadly similar work.

Employees engaged on fixed-term or temporary contracts will be encouraged to apply for permanent vacancies and will have access to all available vacancies as they arise via the Trust/School websites and staff noticeboards.

7. EXTENDING A FIXED TERM OR TEMPORARY CONTRACT

Where fixed-term or temporary contracts are extended, all continuous fixed-term or temporary periods of employment will count towards an employee's continuity of service.

In order to ensure that an extension to a fixed term or temporary contract or change in contract status is actioned the line manager must firstly ensure the extension has been agreed by the Head of School and the Director or Finance. The line manager must then inform the HR Department, who will initiate a change form reflecting the decision.

8. TERMINATING A FIXED TERM OR TEMPORARY CONTRACT

The termination of fixed-term or temporary contract, or non-renewal of a fixed-term or temporary contract beyond its expiry date is regarded as a dismissal (Employment Rights Act 1996, s.95 (1) (b)) and the procedure outlined in Appendix 1 should be followed. Fixed-term contracts will normally end automatically when they reach the agreed end date. Whilst the Trust is not legally required to give notice where the end date is already specified in the contract, confirmation of the end of the contract will be sent to the employee from the HR Department within the usual notice periods as specified within the employment contract.

The reason for dismissal will be due to either:

- Redundancy; e.g. where the requirement for the work to be undertaken has diminished or ceased
- SOSR (Some Other Substantial Reason). For example, where the requirement for the work to be undertaken has not reduced and the substantive post holder has returned to work or a permanent employee is recruited.

Further clarification on the correct dismissal reason is provided in Appendix B.

A redundancy payment may be due in certain circumstances when a temporary or fixed term contract ends and the employee is not offered a renewal of the contract. However the entitlement to a redundancy payment depends on whether (a) the employee has completed two years' service (if not, there is no entitlement) and (b) the reason for the decision not to offer renewal of the contract is redundancy.

Some situations will be relatively clear, but there are often marginal cases; HR will advise the manager on the appropriate reason for dismissal.

It must also be understood that if an employee has been continuously employed on a series of fixed term or temporary contracts for four years or longer, they may be entitled to be treated as permanent employees. Such cases will be rare, but managers should always seek HR advice if a case is encountered.

When preparing to end a fixed-term or temporary contract, the Trust will normally:

- Demonstrate the reason for dismissal
- Take appropriate steps to ensure the dismissal is fair and reasonable
- Take care not to allow a fixed-term contract to expire without renewal and then engage someone else to do the same work
- Establish whether the fixed-term employee is entitled to a redundancy payment

- Ensure the employee is aware of and able to access vacancy information within the Trust
- Give written notice where early termination is necessary or where an end date is not specified in the temporary contract
- Provide the employee with a written statement of reasons for dismissal where such a request is received

Generally, dismissal on the expiry of a fixed-term contract will be viewed as legally fair, provided that;

- The fixed-term contract was established for a genuine purpose;
- The purpose of the contract and the reason for it being fixed-term were known by the employee; and
- The underlying purpose of the contract has ceased to be applicable.

9. SUCCESSIVE FIXED-TERM CONTRACTS

Under reg. 8 of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002, employees continuously employed on successive fixed-term contracts for 4 years or more will automatically achieve permanent status, unless the Trust can justify the continued use of a fixed-term contract.

10. MONITORING COMPLIANCE WITH AND EFFECTIVENESS OF THE POLICY

Effectiveness and compliance of this procedure will be monitored on an annual basis.

11. REVIEW

This Policy will be reviewed every two years with recognised trade unions at local secretary level.

Where a fixed term or temporary contract is due to expire, HR will contact the line manager to seek clarification on whether or not the contract should be extended, exploring the reasons and ensuring legal requirements are understood and that this Policy is implemented fairly, equitably and transparently.

Where the decision is taken that the contract will be terminated, either based on Redundancy or Some Other Substantial Reason (SOSR), the following process should be followed

1. The employee should be invited to attend a meeting with their line manager. The employee should be given a minimum of 5 working days' notice of this meeting, and they have the right to be accompanied at the meeting by a recognised Trade Union Representative or work colleague.

Where the fixed-term or temporary contract is either ceasing early or an end date was not specified in the contract of employment, the meeting should be held prior to the commencement of the required notice period to ensure that the appropriate notice is issued.

In all instances, advice should be sought from the HR Department prior to the meeting taking place.

2. The following points should be used as a guide when conducting proceedings:
 - a. Confirm with the employee that the contract of employment is to expire; the date of expiry and that it will not be renewed.
 - b. Explain the reason for the non-renewal.
 - c. Confirm the dismissal, the reasons and the termination date.
 - d. Confirm whether the dismissal will be on grounds of redundancy (with or without a payment) or SOSR.
 - e. Check and confirm whether the employee wishes to access additional support via the Redeployment Procedure.
 - f. Check that the individual is aware of how to access job vacancies within the Trust.
 - g. Where an employee has 2 years or more continuous service and the reason for the dismissal is due to redundancy, the line manager should ensure they are aware they may be entitled to a redundancy payment. Where there is an entitlement to a redundancy payment, HR will calculate a redundancy estimate and provide written confirmation of this to the individual.
 - h. Advise the employee of their right of appeal
 - i. Advise the employee that their dismissal will be confirmed in writing

3. Following the meeting, contact HR who will issue the relevant dismissal letter.

CRITERIA FOR REDUNDANCY PAYMENT

APPENDIX 2

Definition of Redundancy - ERA 1996

"For the purposes of this Act, an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is attributable wholly or mainly to –

(a) the fact that his employer has ceased, or intends to cease –

(i) to carry on the business for the purposes of which the employee was employed by him, or (ii) to carry on that business in the place where the employee was so employed, or

(b) the fact that the requirements of that business –

(i) for employees to carry out work of a particular kind, or (ii) for employees to carry out work of a particular kind in the place where the employee was employed by the employer

Examples:

Reason for Appointment	Type of Dismissal	Redundancy Payment (if over 2 years' service)
Time Limited Project	Redundancy	Yes
External Funding Stream	Redundancy	Yes
Cover for substantive post-holder (Maternity, Sickness, Secondment etc)	SOSR	No
Trial of a role which becomes a permanent need and the employee on a FTC is not the successful applicant	SOSR	No