Policy on the use of Fixed Term Contracts

Introduction

1. Newcastle University is committed to ensuring that all staff employed on fixed term contracts are treated as favourably as those staff doing equivalent jobs on open ended contracts in relation to pay, benefits, training, promotion and career development. This policy is consistent with the above commitment, and compliant with the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002. The policy also takes account of, and is consistent with, the guidance issued by the JNCHES in June 2002.

2. The aims of this policy are to;

   - Promote a reduction in the use of Fixed Term Contracts within the University.
   - Identify the criteria which may justify the continued use of Fixed Term Contracts.
   - Encourage the transfer of staff from Fixed Term Contracts to open ended contracts.
   - Identify the management issues arising from Fixed Term Contracts.

Principles

3. The University believes that open ended contracts of employment are normally the most appropriate form of employment contract, unless there are specific, necessary and objective reasons for the employment of staff on Fixed Term Contracts.

   The University therefore undertakes that it will;

   a) Aim to achieve a significant reduction in the numbers of staff employed on Fixed Term Contracts. This will relate particularly to Academic and Research staff where there has, historically, been a significant use of Fixed Term Contracts.

   b) Comply with the Fixed Term Employee (Prevention of Less Favourable Treatment) Regulations 2002.
c) Undertake not to seek to avoid the application of the above regulations by requiring short breaks of service to prevent continuity of service.

d) Ensure that processes are in place to avoid redundancy dismissals where ever possible, including the provision of redeployment, bridging funding to facilitate the transition between grants, opportunities for career development (inline with the concordat), PDR, and mentoring systems; and by working with funding bodies to obtain changes in funding provision that will meet the requirements of the new legislation and for the long term provision for experienced research staff, including the provision of funding to support training/retraining and bridging costs.

e) Ensure that if, as a last resort, redundancy must be considered, that this is conducted in compliance with the agreed university redundancy procedures and, where applicable, the University Statutes.

The University notes that there will always be a requirement for some use of Fixed Term Contracts arising from the nature of its business. Staff who are employed on Fixed Term Contracts will, however, enjoy no less favourable conditions of employment or treatment than equivalent staff on open ended contracts.

4. It is accepted that the University is the legal employer of all members of staff, and not the School, Service or Institute in which the individual is based. The University will therefore take responsibility for the application of this policy, and reserves the right to intervene where it is necessary to do so. This may include the identification of any funding to support bridging between contracts where appropriate. It is the case, however, that the day to day management of funds which support staff appointments is the responsibility of the School/Institute/Service and/or Faculty. The Human Resources Section will be responsible for monitoring the overall application of this policy and especially the numbers of staff employed on fixed term contracts and the duration of those contracts. Heads of Schools/Services and other managers should seek advice from the Human Resources Section on the application of this policy and of the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002.

Criteria for the use of Fixed Term Contracts

5. The DTI has defined a Fixed Term Contract as ‘a contract of employment that is due to end when a specified date is reached, a specified event does or does not happen, or a specified task has been completed.’
As noted above, it is accepted that there will be some continuing need for the use of fixed term contracts, but only where there is objective justification. Objective justification for the use of a fixed term contract is limited to the following:

a) The post exists specifically for the purposes of training or career development, for example training for medical staff.

b) The post is that of a temporary, personal research fellowship.

c) The post is a secondment from another employer.

d) The post requires specialist skills for a limited period, or specialist input from practitioners in a particular discipline such as specialist programming skills, for a limited period.

e) The appointment is to provide cover for another member of University staff who is absent for a limited period (e.g. for reasons of maternity/sickness leave, secondment, sabbatical leave, research leave, career break, secondment, etc)

f) The post is to support a business/academic activity, which will only continue for a specified period of time, or where it can clearly be demonstrated to be particularly uncertain and can only continue for a specified period of time. Examples might include posts to support the launch of a new teaching programme, where success of the programme will depend on student take up which will influence the longevity of the programme.

g) The use of Fixed Term Contracts may also be necessary where there are statutory limitations on the period of employment such as a time limited visa or work permits, or where there are contractual stipulations attached to the funding, e.g. some EU funding.

h) The contract is for continuation of employment beyond normal retirement age.

Performance and other personal issues will not be a justification for the use of a fixed term contract. The examples of objective justification listed here are subject to change as employment law in this area develops. Any changes to this list will be subject to negotiation with the campus unions.

**Equal Treatment**

6. Under the Fixed Term Employee (Prevention of Less Favourable Treatment) Regulations, staff employed on a fixed term contract must enjoy no less favourable Terms and Conditions than those of staff
engaged in a comparable role on an open ended contract. This has been University policy for many years. The University therefore commits that members of staff employed on a fixed term contract shall:

a) Receive the statutory statement of their conditions of employment.

b) Be treated no less favourably than comparable staff on open contracts. This commitment applies to rates of pay and staff benefits, to training, promotion and career development, and access to job vacancies and information about job vacancies among other aspects.

c) Be able to ask the university (in the first instance their line manager) to explain the objective justification for the use of a fixed term contract, and to discuss this with their manager.

d) Be able to discuss their longer term career and employment options with their manager.

e) Enjoy the same rights to participate in the governance of the University as staff employed in a comparable role on an open ended contract.

Renewal of Fixed Term Contracts

7. All proposed extensions or renewals to fixed term contracts, where the member of staff has been employed for a period of four years or more, will be reviewed with the intention of transferring all such employees to open ended contracts with the exception of those cases where one of the objective justifications noted above applies. In the exceptional circumstances that it is decided that there continue to be objectively justifiable grounds for the ongoing use of a fixed term contract, the employee will be advised of these grounds and of the reason for the continued use of a fixed term contract.

8. Staff who have 4 years continuous service on successive fixed term contracts and are not converted to an open ended contract by 31 July 2007 may ask to have their case reviewed by a joint trade union/management panel comprising equal numbers from the relevant trade union and management. Members of the panel should have a good knowledge of issues associated with the area and nature of work whilst care should be taken to ensure no panel member is from the same work team or area as the case under consideration. The panel will consider written representation from the manager and member of staff and may, where appropriate, refer the case back to the manager for further consideration of the case to convert to open ended contract.
Research Staff

It is recognised that the great majority of Research Staff are employed on project funding for a specific period of time, and for a specific purpose. Within this context, the use of fixed term contracts for research staff has been widespread. The terms of this policy on the use of fixed term contracts are, however, applied equally to research staff as to all other staff. Any use of fixed term contracts for research staff will therefore need to be objectively justified with reference to the criteria in Section 5.

The University accepts that the application of this agreement represents a major change in the way in which research staff have been employed hitherto with much greater use of open ended contracts. This also requires a different approach to the management of research projects. The requirement is for a more systematic and strategic approach, recognising the role and responsibilities of the School/Institute/University as well as those of the Principal Investigator and the Researcher. To maximise the benefits of the greater use of open ended contracts will require a flexible approach by both research staff and their managers, including a commitment to the redeployment of researchers in accordance with the University’s Redeployment Policy, the submission of grant proposals which do not seek to suppress salaries at the lower end of the scale, and the provision of bridging funding between contracts where appropriate. Various measures have been implemented to facilitate these changes, including the introduction of a redeployment database. It will also be an essential part of good management practice that research staff are kept fully aware of the funding situation on their research projects.

The University is also committed to a more active and structured approach to the management of research staff and their careers, building on the 1996 Concordat for the Career Management of Research Staff and the University’s own Policy on Employment Practice for Contract Research Staff to enable research staff to reach their full potential, and steps are being taken to implement this approach. One example is the Career Path for Postdoctoral Scientists initiative in the Faculty of Medical Sciences. Significant career development opportunities are also available to research staff through the Staff Development Unit.

In line with the provision of section 7, the University will work towards a position where, by 31 July 2007, staff who have 4 or more years continuous service with this University and have an extension will normally be employed on an open ended contract.
Non Renewal of a Fixed Term Contract

10. The non renewal of a Fixed Term Contract is, in law, a dismissal. In most cases the reason for that dismissal will be redundancy.

As stated above the University commits to taking all reasonable steps to avoid the need for compulsory redundancies, whether of staff on fixed term contracts or open ended contracts. Where these measures have been unsuccessful, and it has not been possible to find alternative employment any dismissal will take place in accordance with the appropriate procedure.

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