



Swansea University Prifysgol Abertawe

Policy and Procedure for employing staff on Fixed-Term Contracts and Fixed Term Funding Streams

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Policy Name: Policy on Fixed-Term Employment and Staff Employed on Fixed Term Funding Streams	P No : P1415-507
Policy Owner: Sally Davies	
Issue/Review Date: May 2014	
Relevant Legislation / ACAS guidance if applicable: Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002, which are incorporated into the Employment Act 2002 and the JNCHEs Guidance on Fixed -Term and Casual Employment.	
Documents being replaced Policy on fixed term employment and staff employed on fixed term funding streams - September 2011	
<p>Policy Statement</p> <p>This policy applies to all fixed term employees and staff employed on fixed term funding streams other than those with appointments of very short duration (normally 3 months or less). This will include all types of appointment and all grades of staff.</p> <p>It is the University's intention to achieve the right balance between flexible working, organisational efficiency, fair treatment and secure employment. The University depends on a range of funding sources, some of them variable and time limited and therefore needs to make full use of modern and flexible work arrangements and to adopt patterns of work that will fit the challenges of the future. Just as important, all employees in all occupational groups, should be treated fairly and offered opportunities to pursue and develop their careers.</p> <p>The following principles will be adopted with regard to the use of fixed term contracts:</p> <ol style="list-style-type: none">a) Equality of opportunity is reflected in all aspects of employment. Allocation of staff to fixed term contracts should be free of gender or race bias and will not discriminate on the grounds of disability or age. Monitoring will be undertaken to ensure that this is so,b) Indefinite contracts are the expected form of employment relationship between the employer and employee,c) Heads of College should give consideration wherever possible to incorporating external recurrent funding streams into the Business Plan with a view to securing the employment of staff employed on fixed term funding streams.	

- d) Very short periods of employment will only be made where the situation is dictated by sickness, parental leave or short funded projects. In particular, the situation in which an employee is appointed on a succession of short-term contracts should be used only in circumstances where this is to the specific benefit of the employee concerned or in circumstances where business exigencies necessitate. That is in circumstances where not to do so would lead to the termination of the contract (e.g. gaps in research funding, provision of continuing sickness or parental cover.)
- e) Staff should only be placed on fixed-term contracts where this is justified for transparent and objective reasons. Where this is the case, staff on these contracts will be given:
- comparable opportunity with other staff to develop performance and career prospects through staff development, training and professional development review,
 - information on, and the opportunity to apply for, more secure positions,
 - a review to consider indefinite employment at appropriate periods at any time, on the request of the employee or Head of College/Department,
 - a transfer to a indefinite contract, if a renewal will take them over four years of service, unless the renewal is for five months or less for bridging purposes, or for a reason in employees' interest as stated under (d) above. There are benefits to the University and the long-term career development of staff in transferring fixed term staff to indefinite contracts. Indefinite employment will be available for members of staff currently on fixed-term contracts where circumstances allow as clarified in the procedures which support this policy.
- f) Staff employed on fixed-term contracts or fixed term funding may have special needs (e.g. careers advice for early career research staff) relating to their short-term contracts and facilities are available to meet these needs and the University undertakes to support these needs.

Definitions of HR terms used in this policy:

Fixed term staff can be defined as: staff employed on a particular project or in a particular role with a defined end date.

Staff on fixed term funding streams can be defined as: employees who are employed on an indefinite contract but who are employed to work on a particular project with a fixed end date or with finite funding or in a particular role for which the funding is received from an external body and is not guaranteed indefinitely.

Supporting Procedures/Guidance Documents/Codes of Practice with P Nos. and hyperlinks:
Procedure for employing staff on Fixed-Term Contracts and Fixed Term Funding Streams.

Procedure for employing staff on Fixed-Term Contracts and Fixed Term Funding Streams

1. Introduction

This document supports the University's Policy on Fixed-Term Employment and staff employed on Fixed Term Funding Streams and gives managers guidance on how to manage staff who fall into the scope of this policy.

These procedures will apply to all fixed term employees and staff employed on fixed term funding streams other than those with appointments of very short duration (normally 3 months or less). This will include all types of appointment and all grades of staff.

2. Reasons for the use of Fixed-Term Contracts

There must be transparent and objective reasons for placing a post on a fixed term contract initially. Similarly, the renewal or extension of the fixed-term contract must also be justified separately by transparent and objective reasons. The authorisation to appoint must specify the reason and this reason will also be stated on the contract of employment.

Examples of transparent and objective reasons or circumstances include:

- a) the post requires specialist expertise or recent experience not already available within the institution in the short term,
- b) to cover staff absence as appropriate (e.g. parental and adoptive leave, long-term sickness, leave of absence, sabbatical leave or secondment),
- c) the contract is to provide a secondment or career development opportunity,
- d) input from specialist practitioners (e.g. to provide professional expertise in Colleges / Schools /Departments, such as Law),
- e) where the student or other business demand can be clearly demonstrated as particularly uncertain (example e.g. the reliance

upon recruitment of students from overseas markets that have a record of instability),

- f) limited term projects where there is no reasonably foreseeable prospect of funding being renewed, nor other external or internal funding being available or becoming available, and where members of staff are appointed for 3 years or less or for short extensions beyond this, where this is in the employee's interest (i.e. the employment would otherwise end).

3. **Employment Conditions**

During the course of their employment, staff employed under the scope of the policy are entitled to the same Terms and Conditions as other employees of the University on comparable grades, unless the difference is justifiable for a transparent and objective reason. Terms and conditions will include: rates of pay, hours of work and holidays, superannuation, sick pay and parental leave.

Any employee appointed on a fixed term basis may receive, by making a request in writing to the Director of Human Resources, a written statement within 21 days of receipt of the request explaining any differences in their employment conditions from those of comparable permanent employees.

a) Appointment Procedures

The filling of posts should be in accordance with the policies contained in the Equal Opportunities Code of Practice and Recruitment and Selection Guidelines, in respect of advertising, selection and appointment. Except in circumstances where this would not be practical due to the very short duration of the post, i.e. 3 months or less.

Where ever practical, i.e. for post longer than 3 months, contracts of employment should contain an appropriately graded job description as described in the University's Recruitment and Selection Guidelines.

b) Contracts of Employment

Swansea University would under normal circumstances ensure that all prospective employees and all employees to be reappointed or made indefinite are forwarded a contract of employment within the first month of the commencement of the contract. It is incumbent on Heads of College/Department and Nominated Supervisors to communicate information to members of staff on any reasons for delay in renewal of appointments due to funding difficulties. The Human Resources Department will also provide assistance, where required.

- c) Probation
All fixed term appointments will be probationary in accordance with normal Swansea University practice: <http://www.swansea.ac.uk/personnel/informationforstaff/probationaryappointments/> . If the initial fixed term appointment is less than the probationary period then probation is still applied. In exceptional circumstances where normal recruitment procedures have not taken place due to the short term nature of the appointment, normal probation procedures will not be applied, but the appointment will not be renewed until proper advertising etc has taken place.
- d) Promotion and Contribution Awards
All employees covered by the Policy are eligible to be considered for Promotion/Merit Awards/Contribution Awards by the application of the appropriate policy, available on the HR Website: <http://www.swansea.ac.uk/personnel/promotions/> subject to the rules of the scheme in question.
- e) Staff Development
Swansea University is committed to ensuring that, during the course of their employment, all staff covered by the policy should experience and enjoy the same opportunities for staff development as permanent employees of the University. It is recognised that a majority of research staff are employed on fixed term funding, and special provision for the needs of this group of staff is made within the APECS Development and Training Services: <http://www.swansea.ac.uk/dts/researcher-development/>
- f) Professional Development Review
All employees covered by the Policy will participate in the professional review scheme: <http://www.swansea.ac.uk/personnel/performance-enabling/professional-development-reviews/>
- g) Conferences
All Academic and Research staff to whom the Policy applies should, subject to the regulations already in existence, be entitled to attend conferences and claim the appropriate expenses at University rates, subject to the approval of the Head of College.
- h) Rooms, Equipment and Other Facilities
All employees covered by the Policy shall be provided with a suitable working environment. Fixed term academic and research staff will be entitled to use whatever University and College facilities are appropriate to their work (such as libraries, laboratory and fieldwork equipment, photocopiers, stationery, telephone and secretarial assistance), and be able to recommend books for purchase by the University Library, subject to the same rules as permanent staff.

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All employees covered by this Policy shall have the same access to University facilities as permanent University staff, e.g. Library, Sports facilities, Catering and other general staff facilities etc.

4. **Procedures for Consultation, Termination and Renewal**

This section applies to staff whose employment is due to expire because existing funding is coming to an end and no further funding has been obtained.

a) Collective Consultation will operate as follows:

In accordance with the 'Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations' 1995 and 1999 the University will begin consultation with Trade Unions either:

- i. thirty days in advance of the ninety day period if between 20 - 99 employees are to be dismissed
or
- ii. forty five days in advance of the ninety day period if 100 or more employees are to be dismissed.

As required by S188(4) of the Trade Union and Labour Relations (Consolidation) Act 1992, the University will consult with appropriate representatives regarding the University's proposals to reduce the number of staff dismissed by virtue of redundancy.

Representatives will be provided with the following information:

- i. reasons for the proposed redundancies
- ii. numbers and descriptions of employees affected
- iii. proposed method of selecting the employees who may be dismissed
- iv. proposed method of carrying out the dismissals, taking account of any agreed procedure, including the period over which the dismissals are to take effect
- v. how redundancy payments, other than the legal minimum, will be calculated.

It does not follow that all of those staff notified to Trade Unions will ultimately be made redundant. It is the University's firm intention to seek new funding for those members of staff or redeploy as many of those staff put "at risk" as possible.

b) Individual consultation will operate as follows:

The Human Resources Department will write to the Head of

College/Department or Nominated Supervisor not less than five months before the expiry of the funding date or contract expiry date. They will be asked to confirm whether further funding has been secured. This should be done by no later than three weeks after the date of the letter from the Human Resources Department. Where a continuation of funding is not guaranteed, the assumption should be that a redundancy process should be commenced in accordance with the Ordinance for the non renewal of fixed term contracts and redundancy by way of termination of specific, fixed term, funding streams ([see P0910-1265](#)).

- i. If further funding is identified, the Head of College/Department or Nominated Supervisor will be asked to complete an [ABW Employment Request](#) and, once approved via the appropriate approvals process, the member of staff will be informed of the revised end of funding date/re-appointment. Where the member of staff is on a fixed term contract, this contract will be extended to reflect the revised end of funding. If this extension will take the member of staff beyond four years service, an indefinite contract will be issued (in accordance with Section 6a below).
- ii. If further funding is not identified, at least four and a half months before the proposed termination date, the nominated manager will write to the employee asking whether they wish to have a meeting to discuss the issue. If the employee responds positively to this invitation, the nominated manager will meet with the employee giving reasonable notice of the meeting. The nominated manager may be accompanied by a representative from the HR Department. The employee has the right to be accompanied by a work colleague or trade union representative.
- iii. The purpose of the meeting is to review the circumstances which may result in the employee's dismissal and for the employee to make any representations before a decision is made. To explore options for alternative employment and discuss any support and training that may be beneficial to the individual concerned. A record of this meeting will be kept utilising form L9499.
- iv. Affected members of staff who have more than eight months service prior to the commencement of the consultation period will be eligible to be included on the University's redeployment list. Full details of the Redeployment Policy are included in Appendix II.
- v. Following the meeting, the nominated manager may provisionally determine that the employment should terminate in accordance with the employee's current contract and/or funding or take any other action other than dismissal which is justified by the circumstances. The nominated manager shall inform the employee in writing of this provisional determination within one week of the meeting. This determination will then be considered by the Director of Human Resources or his/her nominee.

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- vi. At least one month before the proposed termination date, the Director of Human Resources or his/her nominee shall consider the provisional determination referred to in paragraph (vi) above and may decide to approve the provisional determination, or ask the nominated manager for further information or require further consultation with the employee to be carried out.
- vii. Following approval by the HR Director or nominee his/her decision will be confirmed in writing to the employee within one week of the decision being made. The letter will specify the decision and (where the decision is that the employment shall be terminated) that the employee has a right of appeal and how to exercise that right.
- viii. If the member of staff wishes to appeal against the decision, he or she may do so by writing to the Registrar's office setting out in full the grounds for appeal. Appeals shall be lodged and conducted in accordance with the University's ordinance for appeals.

4.1 Procedures for Large Project Closures

This provision applies to groups of staff whose employment is due to expire, because the project on which they have been employed is coming to an end and for which potential future funding has been identified. If no further funding has been identified staff will be consulted with and terminated in accordance with section 4 above. Where there is uncertainty as to whether or not a potential redundancy constitutes a large project closure this will be determined by the Director of HR whose decision will be informed by consultation and advice where appropriate.

If future funding has been identified the pool for selection will be the group of employees who are currently employed on that particular funding stream/project. The pool will depend upon the area or areas of activity in which the University's requirements for employees to carry out work of a particular kind has ceased or diminished. In some cases, for example (in relation to a very specialist post) the role may be unique and there will not be a pool, in which case there is no selection decision to be made and the individual may be provisionally selected for redundancy on the basis that the position is unique.

Where there is a pool, a selection mechanism will be developed to determine which employee (if any) should be put forward for redundancy. This may be the application of selection criteria to "select out" individuals; or a competitive interview method to "select in" to newly created posts following the deletion of other posts, or some other mechanism. Normally the pool will be drawn from the members of staff who are employed on the project. The selection mechanism will normally be based on the current and future needs of the College/Department in relation to that specific area of activity. In such cases the normal redeployment processes will not

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apply until the restructuring of the project has been concluded. The equality implications of any selection process will be considered.

5. **Bridging Funds (A provision for departmental bridging funds has been included in the Financial Regulations E 12.23)**

As recommended by the Concordat to Support the Career Development of Researchers, Colleges/Departments are required to provide funding from balances held in 'other D' accounts to cover short term gaps in funding for Research staff. Such funding should normally be provided:

- a) up to a maximum of three months
- b) only where there is strong evidence that further external funding will become available in the near future.

Heads of Colleges/Department may wish to consider the use of such funds in circumstances where formal notification of contract funding has been delayed.

Heads of College/Department should also consider exploring whether bridging funds are available from the funding body.

6. **Procedures for Transfer to Indefinite Contracts**

The use of successive fixed term contracts is limited to four years, after which employment will be indefinite unless the use of further fixed term contracts is for six months or less, where this is in the employee's interest (i.e. the employment would otherwise end). This will include circumstances where a number of short term contracts are continuously renewed, where these taken together add up to a combined period of employment, in excess of four years. The employment will be considered as continuous if there have been breaks in service of less than ten working days or where breaks form a clear pattern e.g. a regular pattern of not working during the summer vacation.

If a request for a renewal of a fixed term contract is approved beyond this limit, the employee will be issued with an indefinite contract, with a fixed funding end date. A fixed term employee has a right to ask the employer for a written statement confirming their contract is indefinite, or setting out the transparent and objective reasons for the use of a fixed term contract beyond the four-year limit.

- a) Procedures will be managed by the Human Resources Department to ensure that when fixed term contracts are to be renewed for a period that will take the employee's continuous

service over four years, a review of each case will be undertaken to consider indefinite employment.

- b) If a fixed term contract is to be renewed, Heads of College/Department will be expected to state transparent and objective reason(s) for the renewal. If this is not considered sufficient by the Director of Human Resources or if no reason is given, an indefinite contract may be issued.
- c) Should an individual be dissatisfied with their continued employment on a fixed term contract, they may at any time request that this be reviewed. The Director of Human Resources will consider the case and, provided there is previous service and guaranteed future funding taking employment beyond 4 years continuous service and future funding for more than five months, the post should be made indefinite.

If the post remains fixed term, the decision will be communicated to the individual member of staff in writing. The letter will state the transparent and objective reason(s) for this decision.

- d) If the individual meets the permanency criteria as stated, the following points need to be considered and, if necessary, addressed before the indefinite contract is issued:
 - i) Was the post advertised in accordance with the appropriate procedures?
 - ii) Was the post holder interviewed by an appointments panel appropriate for the grade of the post?
 - iii) Has the post holder commenced and/or completed a probationary period?
 - i) Does the current post holder have a positive record of probation reports?

It is recognised that there may be exceptional cases with, for example a record of employment of a number of years, where the rigid application of all the above rules will not be appropriate.

- e) If the post and appointment is made indefinite, the letter will identify to the member of staff concerned that, notwithstanding that an indefinite contract has been awarded, there remains the possibility that the employment might in future end for reasons of redundancy, as is the case for all employees under employment law.

February 2014

Appendix I

SWANSEA UNIVERSITY **POLICY ON THE IMPLEMENTATION OF THE 2008 CONCORDAT TO SUPPORT THE CAREER DEVELOPMENT OF RESEARCHERS**

Introduction

Swansea University recognises the crucial contribution that its research staff makes to our research performance and the need to build on our existing internationally excellent and world-leading research. The success of our research staff underpins our ambition which will drive forward research quality, create a suitable environment for research to flourish, whilst ensuring that the impact of our research is maximised. To this end, we are committed to providing a genuinely supportive environment and culture, where researchers can thrive, both professionally and personally. Early Career Researchers (ERCs) are especially important to sustain high quality research, and the University is committed to valuing and promoting career development for this diverse group of staff.

This policy sets out how the University undertakes to fulfil this commitment through the implementation of the 2008 Concordat. This policy applies to all staff on research grades.

Background

The revised 2008 Concordat provides a good practice guide for the management of research staff. It sets out clear expectations for managers and employers of research staff, and Swansea University intends to deliver in full upon these expectations.

The Concordat comprises of seven principles:

- Recruitment and Selection
- Recognition and Value
- Support
- Career Development
- Researchers Responsibilities
- Diversity and Equality
- Implementation and Review

An Action Plan for the implementation of the Concordat has been developed and approved by the Human Resources Policy Committee and the University Research Committee. This Action Plan was drawn up following a detailed review of existing internal policies and practices, which identified where Swansea University met the requirements of the Concordat and specified particular actions where gaps were identified.

In addition, consultation was conducted with a focus group of research staff across the institution. Their views on whether the action plan satisfied the aims of the Concordat were incorporated into a final revision.

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The Action Plan can be found in Appendix I, which addresses each of the Concordat's seven principles and identifies priorities that will support career development. The Action Plan will be reviewed annually and progress against it will be reported to the Human Resources Policy Committee and the University Research Committee, who may recommend further developments or actions to be included as they see fit.

Wider engagement with the research community will also inform the annual review process.

Implementation of the Concordat will be reviewed by a nationally established steering group three years after its launch. All HEI's will be required to provide evidence of their progress towards implementation. This policy and its supporting Action Plan will provide the evidence needed to respond, as and when required.

Responsibilities

The University Research Committee is responsible for promoting high quality research and for developing and monitoring the University's research strategy. More significantly its terms of reference include "working towards the implementation of the Concordat to support the career development of research staff and for increasing their contribution, capability and visibility in the institution". It therefore falls to the Research Committee to have overall responsibility for adherence to the Concordat at Swansea University. Implementation of the Concordat will be subject to review from time to time. It is anticipated that any reporting requirements will be collated and approved through the Research Committee.

The responsibilities of various other groups of staff and Colleges are set out below:

Heads of College will

- Provide an environment within their Colleges in which research staff are supported and valued.
- Develop and maintain a College induction programme and process to ensure that all new staff are properly introduced to their College and University.
- Ensure that there are appropriate channels for research staff to raise any concerns or issues through their College Research Committee.
- Support the continuity of employment of researchers within their Colleges by, for example, supporting short gaps of employment between grants and adhering to the redeployment policy.

Research Staff Managers will

- undertake relevant workshops and inform themselves appropriately to ensure that they are equipped to support their research staff, including career development guidance.
- properly manage their research staff in accordance with the relevant University policies including Induction, Probation, Code for Fixed Term Staff and Professional Review.

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- review their researcher's personal development and progress separately from their performance against the project's goals and objectives.

A Research Supervisor's action plan has been developed to support implementation of the Concordat locally. Research managers are expected to put these actions into practice.

Research Staff

- Should engage in opportunities to enhance their career development and transferable skills and take responsibility for managing their careers.
- Take the opportunity to discuss their careers and seek support from their managers, mentors, staff development and the careers service.
- Record their continuing professional development activities and regularly review and update their personal development plans.

Human Resources Department will

- Uphold best practice in the areas identified in the Action Plan as already meeting the expectations of the Concordat.
- Implement any outstanding actions needed to ensure that we comply with the Concordat's principles.
- Support Research staff and ensure that they are treated no less favourably than any other group of staff irrespective of the duration of their contract.
- Continually monitor and refresh the Concordat policy and action plan.

Staff Development will

- Provide appropriate development opportunities to support the personal and career development of research staff and to enable them to develop their transferable skills.
- Provide appropriate training for research staff managers including equality and diversity, performance management.
- Network and share best practice with other HEI's on the provision of training opportunities and general support for Research Staff.

Human Resources Policy Committee will

- Monitor progress against the Concordat Action Plan and support the Human Resources Department and Development and Training Services in the delivery of this Policy.

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Appendix II

SWANSEA UNIVERSITY **REDPLOYMENT PROCEDURE**

Part I - Application and Scope

Swansea University values the contribution that all staff make to the University, irrespective of the nature of their funding or contract. We invest in our staff and therefore seek to retain staff wherever possible. We recognise our legal obligation to staff employed on fixed term funding streams and fixed term contracts at risk of redundancy, including the requirement to seek suitable alternative employment.

This procedure applies to all staff employed by Swansea University (other than those staff employed on a casual basis) with eight months or more continuous service and less than four months left of their fixed term funding or fixed term contracts, or indefinite staff deemed to be at risk of redundancy.

Part II - Procedure

Human Resources will operate a redeployment list, automatically generated from its database. Where staff satisfy the conditions in Part I and there is no confirmation of further funding for their post, they will be added to the redeployment list. Whenever possible the list will be updated weekly, giving staff the maximum amount of time on the list.

All vacancies, (except those vacancies as designated by the Director of Human Resources, that would not be eligible for applications from those on the redeployment list,) will be posted to the circulation list. Recipients will be given seven calendar days to submit an application for the vacancy. The standard Swansea University on-line application form will be used.

At the end of the seven day period, any applications received will be forwarded to the recruiting manager for shortlisting. The usual shortlisting process will be applied and any applicant meeting the essential criteria of the specification for the post will be invited to interview. The Recruitment Team will scrutinise the reasons for not shortlisting any applicants. If no suitable applications are received, the post will proceed to external advertisement.

If redeployment applicants are to be interviewed, a full appointment panel, appropriate to the grade of the post will be convened. An HR Officer will normally be expected to participate on the panel. At interview, staff will be considered as appointable to the post if they demonstrate they can meet the essential criteria specified for the post. Evaluation of applicants will take place in accordance with Section 15 of the University's Recruitment and Selection Guidelines:

[http://www.swansea.ac.uk/media/Recruitment%20&%20Selection%20Guidelines%20\(Jul10\).pdf](http://www.swansea.ac.uk/media/Recruitment%20&%20Selection%20Guidelines%20(Jul10).pdf)

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Where appropriate, consideration will be given to a supported trial period in cases where a candidate can demonstrate that they would meet all the essential criteria for the post following a brief period of training. Duration and associated costs of a trial period will be considered on a case by case basis.

Staff will be offered the opportunity to unsubscribe from the list at any time. However, staff who have elected to unsubscribe from the list will have to notify the HR Department should they wish to re-subscribe to the list at a later date (subject to eligibility to do so).

It is not intended that staff should have preferential access to promotion opportunities via the redeployment list. Therefore, if a post applied for under the redeployment process is of a higher grade than the grade currently held, applications will be held over until such time as the post is advertised more widely and will be considered alongside any other applications, unless previously filled under the redeployment process.

Vacancy notifications will be sent to staff e-mail addresses as they are held on the HR database. Staff must therefore ensure that they have a valid Swansea University e-mail address if they wish to receive postings from the list.