

Procedure for Consideration of conversion from a Fixed term to a Permanent Appointment

The Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 limits the use of successive fixed term contracts to four years, after which employment will be permanent unless the use of further fixed term contracts is justified for transparent and objective grounds. Some examples of situations that may be considered as objective justification include:

- a) cover for specific staff absences as appropriate (e.g. long-term sickness, leave of absence, sabbatical leave, secondment, parental or adoptive leave),
- b) a particular secondment or career development opportunity,
- c) input from specialist practitioners (for example, to provide professional expertise in departments such as Education or Law),
- d) where the student or other business demand can be clearly demonstrated as particularly uncertain (for example, the reliance upon recruitment of students from overseas markets that have a record of instability),
- e) 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, 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). This will apply to appointments funded through research projects or where a reappointment is made to a new research project, where specific sums are awarded by sponsors for appointments for the period of the research contract,
- f) situations in which employment is determined by the fluctuating demand for short courses, particular modules or schemes of study. For example Associate Tutors in the Department of Adult Continuing Education.

If a fixed term contract is renewed beyond four years, without transparent and objective reasons for doing so it is effectively permanent. A fixed term employee then has a right to ask the employer for a written statement confirming that his/her contract is permanent or setting out the transparent and objective reasons for the use of a fixed term contract beyond the four-year limit.

Requests for a post to be considered for permanency may be submitted by:

- a) The individual post holder
- b) The Head of School
- c) The Director of HR for example where a request for the renewal of a fixed term appointment is not supported by a transparent and objective reason.

Requests must be submitted on the attached form for consideration by the Senior Management Team (SMT) which will take into account the following in considering the request:

- a) Whether there has been a demonstrated track-record of funding secured to support that individual? The employment funding for the individual to date, including number and duration of previous fixed term contracts, previous funding sources, and successful completion of projects, will be reviewed. **The minimum criteria for success will be four years continuous employment on successive funding sources.**
- b) The likelihood of on-going future funding for roles for which the individual's particular skills and area of expertise are suited. **The expectation will be that there is future secure funding for the individual or their particular skills (normally for at least 3 further years).**
- c) Whether the Head of School supports the request? Where the Head of School supports the request they will be required to complete submit an ABW Employment Request, making the case for their support. If the Head of School does not support the request they will be required to justify their decision on the request form.

The decision of the Senior Management Team will be communicated to the individual member of staff. Normally there will be a response within 21 days of receipt of the request and a decision within 6 to 8 weeks.

If the decision is that the contract should remain fixed-term, and the individual is to be reappointed on a further fixed term contract, the reappointment letter will state the transparent and objective reasons for this decision.

If the Senior Management Team makes a recommendation that the post may be filled permanently the following will need to be considered in respect of the individual appointee:

- i) Whether the post was advertised in accordance with appropriate procedures?
- ii) Whether the post holder was interviewed by an appropriate panel for that post?
- iii) Whether the post holder has successfully completed a probationary period?

If any of the above criteria have not been suitably applied to the individual case concerned then the appropriate remedial action will be taken.

The appointment then offered would be of an open ended duration for the member of staff concerned. As is the case for all employees under employment law, employment may in future end for reasons of redundancy. The appointment letter therefore will draw this possibility to the attention of the member of staff concerned.

Positive decisions relating to permanency will be reported to Council at the next meeting in the regular "Appointments to the Staff" reports.

Note on Application of Statute 6 with regard to Redundancy

Statute 6, Part II of the Charter and Statutes of Swansea University sets out the procedure to be followed with regard to redundancy of Academic and Related Staff. This procedure, together with the relevant appeals procedure set out in Part V of the Statutes, could not be operated within the time scale required for termination where appointments are financed through limited term external funds (e.g. appointments funded through research projects where specific sums are awarded for appointments for the period of the research contract). Should Statute 6 be revised in future the procedure for consideration of conversion from fixed term to permanent for such appointments will be reviewed.

REQUEST FOR CONSIDERATION OF CONVERSION FROM FIXED TERM APPOINTMENT TO PERMANENCY

NAME OF POST HOLDER	
JOB TITLE	
SCHOOL/DEPARTMENT	
DATE OF EXPIRY OF CURRENT FIXED TERM CONTRACT	

DETAILS OF FUTURE FUNDING

Dates of Grant		Funding Body and brief outline of Research
From	To	

DECLARATION BY HEAD OF SCHOOL/DEPARTMENT

I confirm that I support this request and an ABW Employment Request has been submitted

Signed: Date:

I do not support this request for the following reason(s):

Signed: Date:

PERSONNEL TO COMPLETE

PREVIOUS EMPLOYMENT AT SWANSEA UNIVERSITY:					
Dates of Contract		Job Title	Grade	FTE	Funding Body
From	To				

Has the post been advertised?	YES/NO
Advert Reference	
Publication	
Closing Date	
Were interviews held?	YES/NO
Date of Interview	
Probation period applied?	YES/NO
If Yes, has probation been completed?	YES/NO

If no to any of the above:

Length of service	
Period in current role	
Other relevant factors	

Signed: Date: