

## Cover Sheet

Trust Board Meeting in Public: Wednesday 13 September 2023

TB2023.85

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**Title:** Fixed Term Contract Procedure

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**Status:** For Decision

**History:** Trust Management Executive 31 August 2023  
People and Communications Committee 14 August 2023

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**Board Lead:** Chief People Officer

**Authors:** Adam Kirton, Assistant Director of Workforce – Pay, Policy and  
Reward

Anna Strange, HR Manager – Policies and Procedures

**Confidential:** No

**Key Purpose:** Policy

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## **Executive Summary**

1. This paper presents one revised Trust procedure: Fixed Term Contract Procedure.
2. The procedure has been considered and is supported by the People and Communications Committee and Trust Management Executive. Prior to consideration by the People and Communications Committee the procedure was circulated for Trust-wide consultation.
3. This paper requires Board approval as we are making amendments to the levels of staff that are authorised to dismiss in relation to fixed term contracts.
4. The key changes made in this iteration of the policy are:
  - a. there is no longer a requirement to follow the Managing Organisational Change Procedure once a fixed term employee reaches two years' service;
  - b. there is now a clear process to follow when changing a position from fixed term to permanent, as well as a clear process to follow when an employee moves from a permanent position to a fixed term position;
  - c. clarifying that only senior managers (band 8a or above or an appropriate senior clinician, i.e. clinical lead) with accountability for the employee will have authority to terminate the fixed term contract; and
  - d. ensuring managers are clear on their responsibility for extending or ending fixed term contracts as well as actively engaging in searching for suitable alternative employment.
5. Implementation of the procedure will be supported by a comprehensive communication plan.

## **Recommendations**

6. The Trust Board is asked to approve the revised Fixed Term Contract Procedure.

## **Fixed Term Contract Procedure**

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### **1. Purpose**

- 1.1. This paper presents the updated Fixed Term Contract Procedure for consideration by the Trust Board.

### **2. Background**

- 2.1. A fixed term contract is an employment contract that is agreed for a fixed period (i.e. they have a specific beginning and end date) and for a specific reason.
- 2.2. The Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 is legislation designed to prevent the less favourable treatment of fixed term employees as compared to permanent employees.
- 2.3. Termination of employment at the end of a fixed term contract constitutes a dismissal in law and therefore the Trust must follow a fair process, as set out in the procedure.
- 2.4. If an employee has been on successive fixed term contracts lasting for four year or more, they can request a statement from their employer confirming that they are a permanent employee. In exceptional cases, fixed term contracts can be renewed beyond four years if the reasons can be objectively justified.

### **3. Fixed Term Contract Procedure**

- 3.1. The updated Fixed Term Contract Procedure was circulated for consultation to staff side colleagues, divisional management teams and HR colleagues between 07 February and 09 March 2023. A copy of the draft procedure was also available in the 'Policy and Procedure Review' folder on the HR intranet site.
- 3.2. The procedure ensures that the Trust follows a clear framework when recruiting, managing or terminating staff on a fixed term contract.
- 3.3. The procedure applies to staff employed directly by the Trust, including Retention of Employment (RoE) employees, on either a fixed term contract or locum contract. It specifically excludes doctors in training, who are allocated a training place by the Deanery.
- 3.4. The procedure ensures that staff are clear on the reasons for a fixed term contract to be issued, extended or terminated, and the processes to be followed in each circumstance.

3.5. The key changes made in this iteration of the policy are:

- 3.5.1. there is no longer a requirement to follow the Managing Organisational Change Procedure once a fixed term employee reaches two years' service;
- 3.5.2. there is now a clear process to follow when changing a position from fixed term to permanent, as well as a clear process to follow when an employee moves from a permanent position to a fixed term position;
- 3.5.3. clarifying that only senior managers (band 8a or above or an appropriate senior clinician, i.e. clinical lead) with accountability for the employee will have authority to terminate the fixed term contract; and
- 3.5.4. ensuring managers are clear on their responsibility for extending or ending fixed term contracts as well as actively engaging in searching for suitable alternative employment.

#### **4. Conclusion**

4.1. The updated Fixed Term Contract Procedure ensures there is a consistent approach to managing fixed term contracts in line with the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 and the Employment Rights Act 1996 (in relation to the termination of a fixed term contract).

#### **5. Recommendations**

5.1. The Trust Board is asked to approve the revised Fixed Term Contract Procedure.

#### **Appendix 1 A – Fixed Term Contract Procedure**

#### **Appendix 1 B – Fixed Term Contract Procedure Communication Plan**

## Fixed Term Contract Procedure

A [toolkit](#) to support the procedure is available

<b>Category:</b>	Procedure
<b>Summary:</b>	<p>It is Oxford University Hospital's NHS Foundation Trust (the Trust) policy to recruit staff on fixed term contracts only where there is a specific reason for engaging someone on a fixed term basis. If a contract has been entered into for a fixed period, it will terminate automatically at the end of that term.</p> <p>The expiry of a fixed term contract amounts to a dismissal under the Employment Rights Act 1996. Therefore, the Trust must be able to demonstrate a fair procedure and a fair reason for the dismissal. In some circumstances, the employee could be entitled to a redundancy payment.</p> <p>This procedure will help managers understand when fixed term contracts can be used, how long they can be used for and their legal obligations in terminating such a contract.</p>
<b>Equality Impact Assessment undertaken:</b>	October 2022
<b>Valid From:</b>	
<b>Date of Next Review:</b>	<p>3 years</p> <p>Until such time as the review is completed and the successor document approved by the relevant committee this policy will remain valid.</p>
<b>Approval Via:</b>	
<b>Distribution:</b>	Trust-wide
<b>Related Documents:</b>	<p>NHS Employers Guidance on the Appointment and Employment of NHS Locum Doctors</p> <p>Recruitment and Selection Procedure</p> <p>Secondment and Acting up Procedure</p>
<b>Author(s):</b>	Divisional Head of Workforce, Clinical Support Services
<b>Further Information:</b>	Divisional HR Team
<b>This Document replaces:</b>	Fixed Term Contracts Procedure v6 – February 2018

**Lead Director:** Chief People Officer

**Issue Date:**

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## Introduction

1. Oxford University Hospitals NHS Foundation Trust (The Trust) intends to live its values of learning, respect, delivery, excellence, compassion, and improvement. By doing this, the Trust values the contribution its employees make to the service, regardless of their contractual status.
2. It is the Trust's policy to recruit staff on fixed term contracts only where there is a specific reason for engaging someone on a temporary and not a permanent basis.
3. The procedure has been developed to comply with the Fixed Term Employee's (Prevention of Less Favourable Treatment) Regulations 2002 and the Employment Rights Act 1996.

## Procedural Statement

4. A fixed term contract will terminate automatically on its expiry date, and no further notice is required by either party. Termination of employment at the end of a fixed term contract constitutes a dismissal in law and therefore the Trust will follow a fair process as outlined in this procedure.
5. Unless within the probation period, poor performance will not be grounds for early termination of a fixed term contract. Where the performance of an employee gives grounds for concern, this must be dealt with in the same way as a substantive employee and the appropriate Trust policy or procedure must be complied with.

## Scope

6. This procedure applies to those currently employed by the Trust, including Retention of Employment (RoE) employees, on a fixed term or locum contract and for prospective employees who are recruited onto a fixed term or locum contract.
7. This procedure does not apply to doctors-in-training employed by the Trust after being allocated a training place by the Deanery. This group of staff are allocated fixed term contracts with the Trust in line with the rotations set by the Deanery. When a training doctor leaves the employment of the Trust in line with the planned rotation, adherence to this procedure is not required.
8. This procedure does not apply to contractors or agency workers who are employed by a third-party agency to provide casual work for the Trust. This procedure also does not apply to apprentices, and students on work placements.
9. Fixed term contracts can be used in the following instances:
  - Maternity leave cover
  - Employment (career) break cover
  - Long term sickness absence cover
  - Organisational change. Where there is a service need to provide a specific role for a fixed term period while maintaining the right to redundancy from the employee's original substantive role
  - Training Contracts
  - Covering a vacancy
  - Specific projects that are time-limited
  - Externally funded posts where the funding is time-limited.

## Aim

10. This procedure aims to deliver a consistent approach to managing fixed term contracts in line with legislation and terms and conditions of service (i.e., Medical and Dental terms and

conditions, the 'National Health Service (Appointment of Consultants) Regulations Good Practice Guidance: January 2005 and the NHS Terms and Conditions of service (commonly known as Agenda for Change)).

11. Fixed term contracts can be a useful way to resource projects or provide absence cover. Managers will need to be aware and consider the following points:
  - 11.1. Fixed term employees are protected under legislation and must be treated the same as permanent employees unless the difference in treatment can be objectively justified.
  - 11.2. The expiry of a fixed term contract is a dismissal and fixed term employees will have unfair dismissal rights on being employed with the Trust after two years.
  - 11.3. Fixed term employees who have been continuously employed for four years or more on a series of successive contracts will need to follow the process for requesting a permanent contract.
  - 11.4. Fixed term workers (whether employees or otherwise) have the right not to be discriminated against contrary to the Equality Act 2010.

## Definitions

12. The terms in use in this document are defined as follows:
  - 12.1 A **fixed term contract (FTC)** is an employment contract that is agreed for a fixed period, i.e., they have a defined beginning and end date and are for a specific reason.
  - 12.2 **The Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002** is legislation designed to prevent the less favourable treatment of fixed term employees as compared to permanent employees.
  - 12.3 A **locum contract** is a type of fixed term contract that is issued to a locum doctor who is standing in for an absent doctor, or temporarily covering a vacancy in an established post or position. NHS Employers '*Guidance on the appointment and employment of NHS Locum Doctors*' sets out the additional requirements for the appointment of locum doctors. Further guidance on extending a locum contract, or if it is likely a locum consultant post will become a substantive consultant post, should be sought from Medical Staffing at the earliest opportunity as specific rules exist regarding the length of locum contracts and the appointment process for substantive consultant posts.
  - 12.4 **Redundancy** is a situation in which the Trust ceases to carry out the work for which a particular employee was employed or ceases to carry out work at the place *where* the employee was employed or has a reduced requirement for employees to carry out work of a particular kind or to do so at the place where the employee was employed to work.

## Responsibilities

13. The **Chief Executive Officer** has overall responsibility for this document.
14. The **Chief People Officer** has delegated responsibility for updates and implementation of this procedure.
15. The **People and Communications Committee** has overall responsibility for the approval of this procedure.
16. The **People Directorate** is responsible for:
  - 16.1 Ensuring that the Trust has a procedure for the use of fixed term contracts that is compliant with current law and good practice.
  - 16.2 Ensuring a process is in place to monitor the compliance and effectiveness of this policy and procedure.



- 16.3 Providing advice and support to managers on the policy and procedure.
  - 16.4 Issuing fixed term contracts that have a defined start and end date and the reason for the fixed term contract.
  - 16.5 Considering matters of good practice and any legal implications as they arise during the application of this procedure and providing appropriate levels of advice.
  - 16.6 Producing a monthly report from ESR highlighting employees on fixed term contracts which are due to expire in the next 6 months.
17. **Managers** are responsible for complying with this procedure. They should be aware of the specific reasons where a fixed term contract is legitimate. They should be aware of the significance of continuous service in terms of employment rights for fixed term employees which can attract a redundancy payment in line with the relevant provisions on redundancy pay as contained in the terms and conditions of service. In cases of potential redundancy, managers are expected to support the fixed term employee by actively searching for suitable alternative employment. Where a fixed term contract is to be extended the manager must ensure they complete the extension process at least two months before the date the fixed term contract is due to end.
18. **Employees** are responsible for complying with this procedure.

### **Appointment to a fixed term contract**

- 19. Fixed term contracts can only be made in specific circumstances as described under the 'Scope' section above.
- 20. It is **not acceptable** to offer a position on a fixed term basis to test the performance of the employee.
- 21. All vacancies of a fixed term nature must be recruited to in accordance with the Trust's Recruitment and Selection Procedure.
- 22. Fixed term contracts must:
  - 22.1 Specify an end date or where applicable, a specific event (e.g., maternity leave cover).
  - 22.2 State the reason for the fixed term status.
  - 22.3 Should be no longer than 18 months in duration unless there is an obvious reason for the contract to be of a longer duration.

### **Extending a fixed term contract**

- 23. The number of renewals or extensions to a fixed term contract should be limited. Where a contract is to be extended, advice from your Human Resources Consultant should be sought and confirmation from Finance that there is sufficient budget will be required. Authorisation must be obtained from the Divisional Director (or equivalent) and a staff Change Form must be completed by the manager for all extensions, giving the reason for the extension and the new expiry date of the contract. Any extension to a fixed term contract should be completed at least two months before the date the fixed term contract is due to end.
- 24. Consideration should be given as to whether this should in fact be a permanent post (see below for change status from fixed term to permanent).
- 25. Any approved extensions or changes to the fixed term contract must be confirmed in writing by the manager to the employee and the information sent to payroll in a timely manner using the appropriate assignment change form. The template letter can be found in the toolkit.

## **Successive contracts of four years or more**

26. If an employee has been on successive fixed term contracts lasting for four years or more, they can request a statement from their manager confirming that they are a permanent employee. The manager should discuss the implications of this change with their Divisional Human Resources Team. In exceptional cases, fixed term contracts can be renewed beyond four years if the reasons can be objectively justified. A flow chart is presented in the toolkit to this procedure.
27. If a fixed term employee believes that their status has changed to that of a permanent employee, they are entitled to request a written statement of variation from the Trust in order to reflect this change.
28. The Trust must respond within 21 days and provide the reasons to the fixed term employee where the Trust does not accept that the employee has become permanent.

## **Change in status from fixed term employee to permanent employee.**

29. Where there have not been successive contracts of four years or more there may be instances where a post filled on a fixed term basis becomes permanent; for example, permanent funding may be secured for a role, or a service review may conclude that the role is required on an ongoing basis. In these instances, the post will normally be advertised again as a permanent position. This is to ensure permanent posts are recruited to on a fair and equitable basis in line with the Trust's Recruitment and Selection Procedure. The fixed term employee can apply for the position but must be considered in the same way as other candidates for the role.
30. In some instances, it may be appropriate to advertise a fixed term role as having the *potential for the post to become permanent*, for example, where the funding is non-recurrent but there is a plan to source permanent funding. In these instances, the fixed term employee may be made permanent without the need to re-advertise and interview, as long as the original advert made clear that there was a potential for the post to become permanent. The manager will speak with their HR Consultant for further advice and guidance.

## **Change in status from a permanent employee to a fixed term employee.**

31. Where a member of staff wishes to move from a permanent role to a fixed term role the Secondment and Acting Up Procedure must be followed.

## **Expiry of a fixed term contract**

32. A fixed term contract will terminate automatically on its expiry date, and no further notice is required by either party. If the contract is to be terminated before the end of the fixed term, appropriate notice periods will apply based on the employee's band or medical specialty.
33. Prior to the automatic expiry of a fixed term contract, the line manager will consider whether there is still a requirement for the post and, if so, whether that should be on a further fixed term (i.e., extension of the fixed term contract) or a permanent basis (see Section on *change in status from fixed-term employee to permanent employee* above).
34. Where a fixed term contract is not being renewed, it is the line manager's responsibility to manage the ending of the fixed term contract. A minimum of one month before the end of the contract, the manager will arrange a meeting with the fixed term employee. This will be followed up in writing, with the confirmed decision and the reasons for ending the fixed term contract (please see letter in the toolkit).
35. Where a fixed term contract is not being renewed, a senior manager with accountability for the employee will have authority to terminate the fixed term contract, subject to following this procedure. For the purpose of this paragraph a senior manager will be band 8a or above or an appropriate senior clinician, i.e. clinical lead.

36. Following the meeting, the manager must ensure all leavers paperwork is completed to end the employment.
37. The employee may appeal against the dismissal, which should be submitted in accordance with the Appeals process at Appendix 2.
38. If a fixed term contract is required to end before its natural expiry date, for example, an employee returning to work early following a period of maternity leave, appropriate notice will be given to the fixed term member of staff.
39. If a fixed term contract is required to end before its natural expiry date due to performance, conduct or restructuring, the ending of the contract will be managed in accordance with the relevant Trust Procedure (for example, the Managing Work Performance Procedure, Disciplinary Procedure or Managing Organisational Change Procedure), and the appropriate notice given.
40. A redundancy situation will arise if the employee is not being replaced because the Trust requires fewer employees to do work of a particular kind.
41. If a redundancy situation arises, the manager should support the fixed term employee to look for suitable alternative employment. Where there is no suitable alternative employment, the fixed term employee may be entitled to a redundancy payment. The Divisional Human Resources Team can provide further advice, guidance, and support.
42. The Trust will also have to ensure that it consults with the fixed term employee about their selection for redundancy and ways of trying to avoid or mitigate its effects in order to ensure that the redundancy process is fair.
43. If the Trust proposes to make 20 or more employees redundant within a 90-day period, it must undertake a collective consultation process which involves consulting with employee representatives. However, the expiry of a fixed term contract will not count towards dismissals for collective redundancy consultation purposes, unless the contract is being terminated early by reason of redundancy.

## Training

44. There is no mandatory training associated with this procedure. Ad hoc training sessions based on an individual's training needs will be defined within their annual appraisal or job plan.
45. It is recognised that employing, extending and terminating fixed term employees can be a complex legal process. Further support can be obtained through the Divisional Heads of Workforce and Human Resources Consultants.

## Monitoring Compliance

46. Compliance with the document will be monitored in the following ways:

Aspect of compliance or effectiveness being monitored	Monitoring method	Responsibility for monitoring (job title)	Frequency of monitoring	Group or Committee that will review the findings and monitor completion of any resulting action plan
Consistent application of the procedure for all staff employed on fixed term and locum contracts	Audit of leavers forms and employee change forms in relation to recorded fixed term contract end dates	HR Records Team/Workforce Information Team	Annual	People and Communications Committee

Aspect of compliance or effectiveness being monitored	Monitoring method	Responsibility for monitoring (job title)	Frequency of monitoring	Group or Committee that will review the findings and monitor completion of any resulting action plan
Consistent application of the procedure for all staff employed on fixed term and locum contracts	Audit of random sample of paperwork associated with termination of contract	Divisional Workforce Team	Annual	People and Communications Committee
Number of employees made redundant as a result of the ending of a FTC	Analysis of employees and their protected characteristics with assignment status of 'fixed term contract' and reason for leaving as 'redundancy'	HR Records Team/Workforce Information Team	Annual	People and Communications Committee

47. In addition to the monitoring arrangements described above, the Trust may undertake additional monitoring of this procedure as a response to the identification of any gaps or as a result of the identification of risks arising from the procedure prompted by incident review, external reviews, or other sources of information and advice. This monitoring could include:
- a. Commissioned audits and reviews
  - b. Detailed data analysis
  - c. Other focused studies
  - d. Results of this monitoring will be reported to the nominated Committee.

## Review

48. This procedure will be reviewed in three years, as set out in the Developing and Managing Policies and Procedural Documents Policy.
49. Until such time as the review is completed and the successor document approved by the relevant committee this policy will remain valid.

## References

[Employment Rights Act 1996](#)

[The Fixed Term Employees \(Prevention of Less Favourable Treatment\) Regulations 2002](#)

[NHS Terms and Conditions of Service](#)

[Consultant Contract 2003](#)

National Health Service (Appointment of Consultants) Regulations Good Practice Guidance: January 2005

[Fixed term Contracts: Understanding the law; CIPD; June 2021](#)

## Equality Impact Assessment

50. As part of its development, this procedure and its impact on equality has been reviewed. The purpose of the assessment is to minimise and if possible, remove any disproportionate impact on the grounds of race, gender, disability, age, sexual orientation, religion or belief,

gender reassignment, marriage and civil partnership and pregnancy and maternity. The completed Equality Impact Assessment can be found in Appendix 1.

## List of Appendices

Appendix One – Equality Impact Assessment

Appendix Two – Appeal Process

## Document History

Date of revision	Version number	Reason for review or update
February 2018	V6	
May 2022	V6.5	Amendments made to fixed term to permanent section.
May 2023	V6.9	Amendments made following consultation

## Appendix 1: Equality Impact Assessment

### 1. Information about the policy, service, or function

<b>What is being assessed</b>	Existing Policy / Procedure
<b>Job title of staff member completing assessment</b>	Mark Handley
<b>Name of policy / service / function:</b>	Fixed Term Contract Procedure
<b>Details about the policy / service / function</b>	<p>It is the Trusts policy to recruit staff on fixed term contracts only where there is a specific reason for engaging someone on a fixed term basis. If a contract has been entered into for a fixed period, it will terminate automatically at the end of that term.</p> <p>The expiry of a fixed term contract amounts to a dismissal under the Employment Rights Act 1996. Therefore, the Trust must be able to demonstrate a fair procedure and a fair reason for the dismissal. In some circumstances, the employee could be entitled to a redundancy payment.</p> <p>This procedure will help managers understand when fixed term contracts can be used, how long they can be used for and their legal obligations in terminating such a contract.</p>
<b>Is this document compliant with the <a href="#">Web Content Accessibility Guidelines</a>?</b>	<i>Delete as appropriate.</i> Yes
<b>Review Date</b>	October 2022
<b>Date assessment completed</b>	3 October 2022
<b>Signature of staff member completing assessment</b>	
<b>Signature of staff member approving assessment</b>	

### 2. Screening Stage

**Who benefits from this policy, service, or function? Who is the target audience?**

- Staff

**Does the policy, service or function involve direct engagement with the target audience?**

Yes

### 3. Research Stages

#### Notes:

- If there is a neutral impact for a particular group or characteristic, mention this in the 'Reasoning' column and refer to evidence where applicable.
- Where there may be more than one impact for a characteristic (e.g., both positive and negative impact), identify this in the relevant columns and explain why in the 'Reasoning' column.
- The Characteristics include a wide range of groupings and the breakdown within characteristics is not exhaustive but is used to give an indication of groups that should be considered. Where applicable please detail in the 'Reasoning' column where specific groups within categories are affected, for example, under Race the impact may only be upon certain ethnic groups.

#### Impact Assessment

Characteristic	Positive Impact	Negative Impact	Neutral Impact	Not enough information	Reasoning
<b>Sex and Gender Re-assignment</b> – men (including trans men), women (including trans women) and non-binary people.				✓	There are more females employed in the NHS than men there is likely to be an adverse impact on women in fixed term roles. A review of fixed term contracts should take place with a gender breakdown to confirm this.
<b>Race</b> - Asian or Asian British; Black or Black British; Mixed Race; White British; White Other; and Other				✓	There is no data recorded on the take up of fixed term posts by race. A review of fixed term contracts to take place with a breakdown on race.
<b>Disability</b> - disabled people and carers				✓	There is no data recorded on the take up of fixed term posts by disability. A review of fixed term contracts to take place with a breakdown on disability.
<b>Age</b>			✓		It is unlikely that this procedure will impact on fixed term staff of a particular age. This will need to be reviewed with a breakdown on age.

Characteristic	Positive Impact	Negative Impact	Neutral Impact	Not enough information	Reasoning
<b>Sexual Orientation</b>			✓		It is unlikely that this procedure will impact on fixed term staff and their sexual orientation. This will need to be reviewed with a breakdown on sexual orientation.
<b>Religion or Belief</b>			✓		It is unlikely that this procedure will impact on fixed term staff and their religion or belief. This will need to be reviewed with a breakdown on Religion or belief
<b>Pregnancy and Maternity</b>		✓			<p>There could be a potential adverse impact on fixed term employees who are pregnant or on maternity leave. The legislation and terms and conditions will protect staff on maternity leave or pregnant to the extent that their fixed term contract will be extended to cover their pregnancy and paid maternity leave plus any accrued annual leave owed.</p> <p>There could potentially be an impact on this group in relation to length of service and whether fixed term employees meet the service provision for attracting occupational maternity pay. This however is not inconsistent with staff on permanent contracts of employment.</p>
<b>Marriage or Civil Partnership</b>			✓		It is unlikely that this procedure will impact on fixed term staff and their marriage and civil partnership. This will need to be reviewed with a breakdown on marriage and civil partnership.
<b>Other Groups / Characteristics</b> - for example, homeless people, sex workers, rural isolation.					



## Sources of information

[NHS Terms and Conditions of Service Handbook](#)

NHS Employers Guidance on the Appointment and Employment of NHS Locum Doctors

[Managing redundancy for pregnant employees or those on maternity leave](#)

## Consultation with protected groups

*List any protected groups you will target during the consultation process and give a summary of those consultations.*

Group	Summary of consultation
	This policy will be going out through the Trust's policy and procedure consultation for comment and suggestions

## Consultation with others

*List any other individuals / groups that have been or will be consulted on this policy, service, or function.*

This policy will be going out through the Trust's policy and procedure consultation for comment and suggestions.

## 4. Summary stage

### Outcome Measures

The main benefit of this procedure is to provide clarity on recruiting, extending, and terminating fixed term contracts of employment by avoiding legal challenges.

Managers are given the tools and equipment to consider if they need to recruit to fixed term posts rather than a permanent role.

There is currently no data to determine whether there is a disproportionate negative impact on those with protected characteristics. A review of data on particular protected characteristics will be conducted to provide assurance to the Trust that there is no adverse impact when appointing, extending or terminating fixed term contracts of employment. Despite this, it is expected that there will be an overall neutral impact for these groups as the procedure is written to enable a consistent and fair approach to for all and identifies where fixed term contracts are inappropriate.

### Positive Impact

In accordance with the Fixed Term Employee Regulations, there will be no less favourable impact with staff on fixed term contracts than those on permanent contracts.

### Unjustifiable Adverse Effects

NA

### Justifiable Adverse Effects

There will be times where staff are dismissed as a result of their fixed term contract ending due to the funding coming to an end or the substantive post holder is returning to the role. This procedure will be followed in ending employment for staff with fixed term contracts.

There is a potential impact on fixed term employees who are pregnant or on maternity leave. The legislation and terms and conditions will protect staff on maternity leave or pregnant to the extent that their fixed term contract will be extended to cover their pregnancy and paid maternity leave plus any accrued annual leave owed.

There could potentially be an impact on this group in relation to length of service and whether fixed term employees meet the service provision for attracting occupational maternity pay. This however is not inconsistent with staff on permanent contracts of employment.

**Equality Impact Assessment Action Plan**

Complete this action plan template with actions identified during the Research and Summary Stages

Identified risk	Recommended actions	Lead	Resource implications	Review date	Completion date
It is currently unknown if there is a disproportionate effect on a particular protected characteristic and fixed term contracts.	Review fixed term contracts based on protected characteristics and assess if there is a disproportionate impact on staff being appointed to fixed term posts.	Head of Corporate Human Resources  Head of Workforce Information		May 2024	
That staff from a particular protected characteristic are being dismissed as their fixed term contract has expired and this is impacting disproportionately on that protected characteristic	Review fixed term contracts based on protected characteristics and assess if there is a disproportionate impact on staff being appointed to fixed term posts.	Head of Corporate Human Resources  Head of Workforce Information		May 2024	

## **Appendix 2 - Appeals Process**

1. If you are not satisfied with the decision made by the Trust to end your employment, you may appeal in writing to the Director of Workforce, stating your full grounds of appeal, within seven calendar days of the date on which the decision was sent or given to you.
2. We will hold an appeal meeting, normally within 14 calendar days of receiving your written appeal. Where practicable, the appeal will be carried out by a manager more senior than the manager who terminated the fixed term contract and who has not previously been involved in the case.
3. The chair of the appeal hearing may ask anyone previously involved to be present. You have the right to bring a workplace colleague or trade union representative to the meeting.
4. We will confirm our final decision in writing, usually within seven calendar days of the appeal hearing.
5. Once the final decision is made, this is the end of the process and there is no further right to appeal.

## HR Policy Communication Plan

HR policy title:	Fixed Term Contract Procedure
Lead author:	Mark Handley, Divisional Head of Workforce – Clinical Support Services
Senior lead:	Nona Stevenson, Assistant Director of Workforce – Employee Relations

### Aim

- To ensure managers are aware of changes that have been made to a policy (usually following its review and consultation)

### Key message(s) to be communicated

- Removing the requirement to go through the Managing Organisational Change Procedure once a fixed term employee reaches 2 years' service. i.e. the Fixed Term Contract Procedure should be followed.
- Clarity on a change in status from fixed to permanent.
- Clarity on change in status from permanent to fixed term.
- A fixed term contract will terminate automatically on its expiry date with no further notice required by either party.
- The procedure clarifies the manager's responsibility for both extending (requirement to submit change form two months before fixed term end date) and ending fixed term contracts of employment as well as actively engaging in searching for Suitable Alternative Employment.
- It is the line manager's responsibility to manage the ending of the fixed term contract. A minimum of one month before the end of the contract, the manager will arrange a meeting with the fixed term employee. This will be followed up in writing, with the confirmed decision and the reasons for ending the fixed term contract (please see letter in the toolkit).
- Where a fixed term contract is not being renewed, a senior manager with accountability for the employee will have authority to terminate the fixed term contract, subject to following this procedure. For the purpose of this paragraph a senior manager will be band 8a or above or an appropriate senior clinician, i.e. clinical lead. The fixed term employee will have a right to appeal the decision.

### Support required from the Media and Communications Team

*The new policy will be communicated to all staff via the Staff Bulletin and NOW@OUH.*

**Other communication options to consider** (to be agreed with the Media and Communications Team and Assistant Director of Workforce – Pay, Policy and Reward)

- Policy on a page, designed by OMI (see Remote Working Policy for an example).
- Divisional sessions with Divisional HR teams and the lead author, e.g. with managers.

The dates set out below are based on the policy being approved at Board currently scheduled for DATE. Should this change, the communication plan will be revised to reflect the new dates.

<b>Date</b>	<b>Action</b>	<b>Method</b>	<b>Responsibility</b>
W/C 18/09/2023	Update the <a href="#">HR Policies and Procedures</a> folder on the intranet with the new version of the policy	Upload to HR Policies and Procedures folder on intranet (removing previous version where necessary)	HR Manager – Policies and Procedures
W/C 18/09/2023	Archive the superseded policy/procedure	Move master copy from 'Current Policies' folder to 'Superseded Policies and Procedures' folder	HR Manager – Policies and Procedures
W/C 18/09/2023	Update toolkit (where necessary).	Upload new/updated documents to the relevant toolkit in the HR Document Library on the intranet and remove previous version(s)	HR Manager – Policies and Procedures
W/C 18/09/2023	Advise the Divisional Heads of Workforce, AHSN Head of Corporate Affairs and People and Staff Side Chair, Staff Side Secretary and LNC Chair via email (cc to HR Consultants, HR Advisors and Assistant Directors of Workforce) that the policy has been approved and any key changes that have been made to the policy.	Via email (including link to policy on the intranet)	HR Manager – Policies and Procedures
W/C 18/09/2023	Advise the Trust PFI Team of the updated/new policy including any updates made to the Toolkit.	Via email to the PFI Data Assistant (including link to policy on the intranet)	HR Manager – Policies and Procedures
W/C 18/09/2023	Include update regarding the policy in Now@OUH and the Staff Bulletin.	Draft the information, upload to Now@OUH and email a short summary to the Media and Communications Team (cc to HR Manager – Policies and Procedures) for inclusion in the Staff Bulletin.	Lead author
W/C 18/09/2023	Ensure the Resourcing team are clear on how the policy is being implemented within the Trust	Via training/Q&A session	Lead Author

<b>Date</b>	<b>Action</b>	<b>Method</b>	<b>Responsibility</b>
W/C 25/09/2023	Ensure HR Consultants and HR Advisors are clear of how the policy is being implemented within the division and wider organisation, including any local processes as appropriate.	Discussion with Divisional HR Team	Divisional Heads of Workforce
W/C 25/09/2023	Advise managers within their division(s) that the policy has been approved (including link to policy on the intranet) and any key changes that have been made to the policy. Ensure managers are aware they are responsible for cascading the information to their teams.	NOTSSCaN – email to divisional managers Corporate – email to divisional managers MRC – present slide deck at divisional meetings. SuWOn – present slide deck at divisional meetings. CSS – present slide deck at divisional meetings.	Divisional Heads of Workforce and AHSN Head of Corporate Affairs and People
W/C 25/09/2023	Ensure the divisional management team are aware of the updated policy (including any key changes made) and any responsibilities they have under the policy.	Discuss policy at divisional management team meeting.	Divisional Heads of Workforce and AHSN Head of Corporate Affairs and People
W/C 25/09/2023	Cascade information about the new policy throughout division and ensure managers are aware they are responsible for cascading the information to their teams.	Each division to hold a Q&A session with directorates with support from the author/Employee Relations team	Divisional Heads of Workforce and AHSN Head of Corporate Affairs and People
W/C 25/09/2023	Cascade information about the updated/new policy/procedure to staff within their team/department.	Via team meetings, one to ones and other department communication channels	Department managers, OSMs, Matrons, Service Unit Leads, Ward Managers etc.