



Human Resources  
Goireasan Daonna

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**Fixed Term Contract  
Policy & Guidance**  
**Poileasaidh Cùmhnant  
Teirm Stèidhichte &  
Stiùireadh**

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# Document Control

## A: Version History

Version	Date	Author	Change
1.2			
1.1	November 23	K MacDougall/J Sikkema/H Jones/L Mackenzie	Strengthen control around extension of fixed term roles
1.0	November 22	K MacDougall/J Sikkema/H Jones/L Mackenzie	

## B: Document Approval

Name	Title	Role
Elaine Barrie	Head of HR	
Louise McGunnigle	HR Manager	

# Introduction

The Highland Council recognises that fixed term contracts can provide flexibility to engage employees for specific projects or to employ additional employees as necessary.

Fixed term contracts must be effectively managed with a consistency of approach.

# Policy Purpose

The purpose of the Fixed Term Policy is to:

- Ensure that all recruitment to fixed term contracts follows the Highland Council's Recruitment and Selection Policy.
- comply with relevant legislation including the [Fixed Term Employees \(Prevention of Less Favourable Treatment\) Regulations 2002](#) and the [Employment Rights Act 1996](#)
- Ensure that managers undertake a fair and consistent approach in managing employees recruited to a fixed term contract.
- Ensure that ECO approval is gained before extending a fixed term role to 24 months or longer.

## Who is this Policy for?

This guidance refers to staff engaged under Highland Council Terms & Conditions.

For **Agenda for Change Staff** managers should refer to Partnership Information Network Policy (PIN Policy) [Fixed-term contracts: NHS Scotland PIN policy](#) which may vary from this guidance. If you have any queries please contact [HR](#)

For teaching staff, Fixed Term Contracts are governed in accordance with locally established [Local Negotiating Committee for Teachers Agreements](#) which may vary from this guidance. If you have any queries please contact [clstaffing.nonteaching@highland.gov.uk](mailto:clstaffing.nonteaching@highland.gov.uk) .

# Policy in Practice

## Definitions

### Fixed Term Contract

A fixed term contract is a contract which either:

- Terminates when the specified task (for example a project where there is limited funding) has been completed. There should be a known ended date which should be 12 months or less initially although can be extended to a maximum of 23 months after review and approval from Service ECO.
- Is made for a specific time period (for example to cover a busy period, including seasonal or casual workers). This time period should be 12 months or less where possible although can be extended to a maximum of 23 months after review and approval from Service ECO; or
- Provides cover for maternity/adoption/sick leave and terminates upon return of the permanent staff member.

## Policy Principles

### When to use a Fixed Term Contract

Circumstances where the use of a fixed term contract may be appropriate include:

- the post is funded for a specified period (less than 23 months)
- The post is for a specific project (duration under 23 months)
- The post is required for seasonal service delivery, or to cover busy times
- Short term cover for the duration of absence of a permanent employee eg maternity or sickness cover
- The post is a secondment or development opportunity

### Rights of a Fixed Term Employee

Employees on fixed term contracts must not be treated less favourably than permanent employees who are doing the same or a similar job. This includes:

- 
- Notice (as detailed in their employment contract) that their contract is ending
  - Being able to access information relating to all employment vacancies within the Highland Council and apply as an internal candidate
  - The same pay, and terms and conditions as permanent employees (including entitlement to maternity leave/pay, sick pay, annual leave, disciplinary and grievance processes, access to an occupational pension scheme and supporting improved work performance).

Where a fixed term contract extends beyond 2 years the employee gains employment rights e.g. redundancy payment and the right to claim unfair dismissal. Managers must note that the employee cannot be selected for redundancy if the principal reason is that they are a fixed term member of staff. This applies from day 1 of their employment and for the entire duration of their fixed term contract.

## **Managing Fixed Term Contracts**

Managers must review fixed term contracts every 6 months to determine whether there is a continuing need and then take appropriate action to end or extend the contract up to a maximum of 23 months. Workforce Planning, establishment numbers and any current recruitment implications must be taken into account and Service ECO approval is required. Other factors to consider may include the return of substantive employee, further funding allocation, project extension etc.

Managers should diary a meeting in with the fixed term employee 4 weeks in advance of the contract end date.

It is good practice to convert a staff member's fixed term contract to a permanent one after 2 years continuous service where the role is permanent, unless there is a good business reason for not doing so (for example the specific project is not yet finished). See 'Extending a Fixed Term Contract Past the Agreed End Date'.

## **Non-Renewal of Fixed Term Contracts (23 months or less)**

The non-renewal of a fixed term contract will be treated as termination of contract, and should therefore be for fair and substantial reasons, for example:

- The project has finished;
- The specific funding for the temporary post has ceased;
- The temporary additional work has ceased;

- The permanent member of staff has returned from maternity/adoption or sick leave.

Proper notice must be given if the fixed term contract is not to be renewed and the employee's contract is to be terminated, the contract should not simply be allowed to lapse. Managers must follow the non-renewal of a fixed term contract as detailed below:

- Meet with the member of staff
- Confirm the last date of employment
- Agree dates for any annual leave due to be used
- Provide appropriate notice in line with the employee's contract of employment
- Issue letter (See [Appendix 1](#))

Further guidance can be sought from [HR](#) if required.

## **Redundancy Rights and Unfair Dismissal**

An employee who has been continually employed for more than 2 years will have full redundancy rights and statutory protection against unfair dismissal.

It is important to remember that an employee appointed to posts under a continuous series of fixed term contracts may accumulate more than 2 years' service.

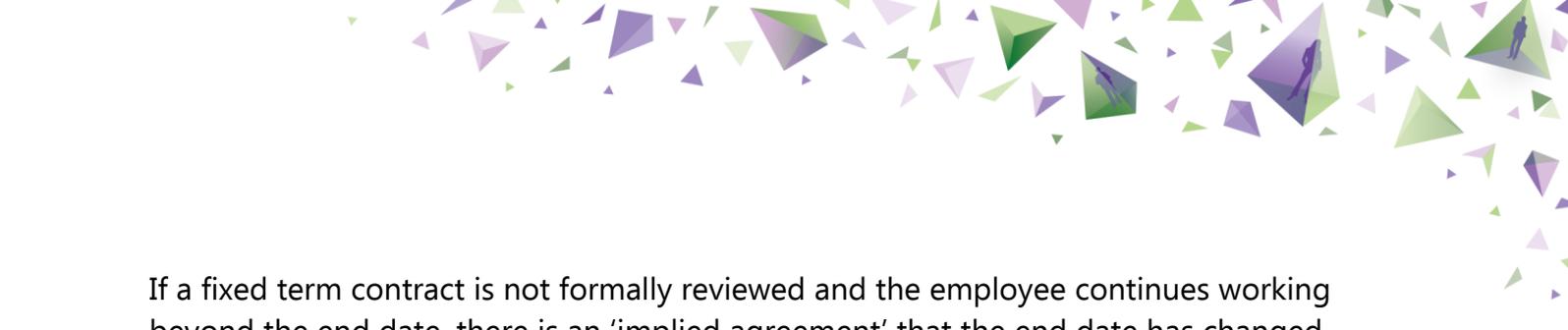
## **Ending a Fixed Term Contract Early**

The employee must be given the correct notice and their fixed term contract formally terminated using the process for non-renewal of a fixed term contract (see relevant section above). The appropriate notice required is detailed in the individual employees' contract of employment.

It is good practice to inform the fixed term employee as soon as it is known that the contract is to end early.

## **Ending a Fixed Term Contract on the Agreed End Date**

When a fixed term contract ends as planned on the agreed end date the employer is not required to give notice. However, it is good practice to meet with the employee prior to the planned end date to advise the employee that their temporary contract will not be extended.



If a fixed term contract is not formally reviewed and the employee continues working beyond the end date, there is an 'implied agreement' that the end date has changed.

If the temporary contract ends after the employee has accrued two years' service with the Highland Council the employee may be entitled to a redundancy payment. The temporary employee will be entitled to the same [redundancy rights](#) as a permanent employee.

Managers must contact [HR](#) to discuss the employee's rights before the contract ends as it may also be possible to redeploy the employee into an alternative role.

## **Extending a Fixed Term Contract Past the Agreed End Date**

Where a fixed term contract is to be renewed or extended this should be in line with Service Workforce Planning and establishment numbers and will always require Service ECO approval. The new proposed end date for the fixed term contract should be agreed with the incumbent employee.

It is good practice to convert a staff member's fixed term contract to a permanent one after 2 years continuous service where the role is permanent, unless there is a good business reason for not doing so (for example the specific project will be complete in a further 2 months).

## **Fixed Term Contract post becoming permanent**

Where a fixed term post is being made permanent or there is a fixed term employee within a permanent post and it is proposed to make a permanent appointment, depending on the circumstances the incumbent can be considered on a permanent basis, without further advertising providing:

- the post has previously been advertised
- the fixed term appointment was made following a formal recruitment process

Fixed term posts are not guaranteed to become permanent. Each post is treated individually. For further information please contact [HR](#).



## Acting Up Arrangements

Where an employee agrees to carry out the full responsibilities and duties of a vacant higher graded post on a short-term temporary basis (temporary acting up). Acting up arrangements may be considered where there is a need to cover short periods of a post holder's absence which are normally not longer than three months. For further information see [Acting Up Arrangements/Temporary Higher Duties](#)

## Secondments

Posts may be advertised internally as a secondment opportunity. For further information see [Secondment Guidelines for Managers](#)

## Guidance

Guidance, information and tools relating to the management of this policy have been developed and will be maintained in accordance with the Highland Council Partnership Framework. Guidance, procedures and associated documentation can be found on the HR Microsite – see Quick Links below.

## Legislation

The development and application of this policy is guided by:

- Employment Rights Act 1996
- Employment Relations Act 1999
- Employment Act 2008

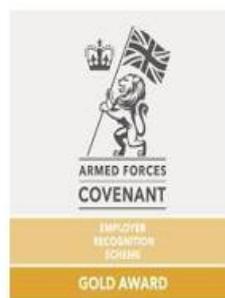
## Monitoring

The application of this policy will be monitored through the Highland Council Partnership Framework and the Corporate Resources Committee.

# Quick Links

The Hyperlinks listed here will redirect you to the related guidance, letters, information, and relevant organisations mentioned in this policy.

<b>HR Microsite</b>	<a href="#">Click Here</a>
<b>Appendix 1 – End of Fixed Term Contract Letter</b>	<a href="#">Click Here</a>
<b>Recruitment and Selection Policy</b>	<a href="#">Click Here</a>
<b>Acting Up Arrangements</b>	<a href="#">Click Here</a>
<b>Secondments</b>	<a href="#">Click Here</a>
	<a href="#">Click Here</a>



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