

# ROYAL HOLLOWAY

University of London

## GUIDANCE FOR MANAGERS ENDING OF FIXED TERM CONTRACTS

(for all staff other than academic staff)

### 1. INTRODUCTION

- 1.1 This guidance should be read in conjunction with the College's Redundancy Policy and Procedure. (Link to HR website to be inserted when policy agreed.)
- 1.2 The non-renewal of a fixed term contract (FTC) constitutes a dismissal in law. The purpose of this guidance is to ensure that FTCs on expiry are terminated fairly and in accordance with Statutory and College procedures. (See College's Redundancy Policy and Procedure and Visiting Teaching Staff - Departmental Procedure for the Contracts of Employment <http://www.rhul.ac.uk/personnel/Policydocs/DepartmentalGuidelinesrevisedFeb2010.pdf>).
- 1.3 The procedures for ending fixed term contracts must be followed for **all employees (other than academic staff) with limited tenure across the College**. This includes research staff, (who are supported by external sponsors), visiting teaching staff (including students undertaking occasional teaching, demonstrating or other work) and all other staff employed on fixed-term contracts (for example those engaged to provide short-term cover and trainees).
- 1.4 The Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 came into force on 1 October 2002 to ensure that staff on fixed term contracts are not treated less favourably than staff on similar permanent contracts. In addition, the Regulations confirm that the expiry or non-renewal of a fixed term contract is a dismissal in law on the grounds of redundancy or some other substantial reason (SOSR). Therefore statutory dismissal procedures apply to staff on fixed term contracts.
- 1.5 Employers are required to follow a process when ending (or significantly changing) any fixed term contract. Simplified, the required process is as follows:
  - Written invitation to a consultation meeting
  - The right to be accompanied at the meeting by a workplace colleague or recognised trades unions' representative
  - Appropriate Consultation Period – See and Redundancy Policy and Procedure – sections 5 & 8.
  - The right to appeal

- 1.6 Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 sets out the consultation periods, and states for example: ‘Where an employer is proposing to dismiss as redundant 20 or more employees at one establishment within a period of 90 days or less, the employer shall consult about the dismissals all the persons who are appropriate representatives of any of the employees who may be affected by the proposed dismissals or may be affected by measures taken in connection with those dismissals.’
- 1.7 As a result of legislation and case law the College has produced this guidance for ending fixed term contracts that incorporates both the minimum steps required when ending a fixed term contract and internal processes and procedures intended to provide support to staff in these situations (such as re-deployment).
- 1.8 It is important to follow these guidelines even when it is still not definite that a fixed term contract will cease (e.g. when waiting for the outcome of a grant application or establishing the curriculum for an academic year). It is safer to extend the contract at the last minute than to fail to properly consult with the member of staff before a contract terminates or expires. Failure to consult can result in a grievance or unfair dismissal claim, where, as a minimum, the College may be required to pay compensation (protected award) on top of any redundancy payment.
- 1.9 Periods of appointment and reappointment must not be used as a way of dealing with problems, e.g. as a means of avoiding the need to address conduct or performance issues. This practice would be contrary to legislation; in particular the Fixed Term Employees Regulations 2002 which state that the use of fixed-term contracts must be objectively justified.
- 1.10 When a member of staff is on maternity or long term sick leave, these procedures must still be carefully followed. In these circumstances please liaise with your Human Resources Manager well in advance of the contract end date for guidance on the best way of conducting the consultation process.

## **2. PROCESS**

- 2.1 The Human Resources Department send notifications of the expiry of fixed term contracts to Line Managers, Principal Investigators or Heads of Department/School six months prior to their end date (for contracts that are under one year in length this notification will be sent in accordance with the appropriate notice period). As the time frame required to end any employee’s fixed term contract should allow for consultation and notification, this gives managers sufficient notice to plan when to start this procedure. It is essential that Human Resources are involved throughout the process.
  - i) Following liaison with Human Resources a line manager should informally notify all staff of the situation, preferably at least six months prior to the end date of their contract (although formal notice need not be given at this stage, it is best practice to give prior notification).

- ii) Following liaison with a Line Manager, Human Resources will arrange a consultation meeting with an employee where there is a possibility that his/her contract will not be extended. The invitation should be in writing and advise the employee that h/she has the right to be accompanied at this meeting by a recognised trades unions' representative or workplace colleague if h/she wishes. An employee may decide that it is not necessary in the circumstances and decline the invitation. If this is the case, the employee will be asked to put this in writing.
- iii) At the meeting the appropriate manager should fully explain the reasons for the proposed termination of the contract (e.g. expiry of research funds, end of secondment, need to cover a temporary staff absence etc). The employee's views should be sought, and, if the employee wishes it, alternative opportunities for employment discussed and any other possible alternative solutions explored. It would be appropriate at this meeting for the manager undertaking the meeting to have informed him/herself in consultation with Human Resources of any other potentially suitable vacancies which may exist around the College e.g. on the Human Resources website and to draw the attention of the employee to both the existence of the website and to any current suitable vacancies identified. Please see appendix 1 - Consultation meeting checklist.
- iv) The employee will also be asked to forward a current CV to Human Resources and to complete a Suitable Alternative Employment questionnaire. Please see Appendix 2 - Suitable Alternative Employment Questionnaire.
- v) Where further funds are being sought, which would lead to the FTC being extended, but these have not been received by the 3 month stage, this should be explained to the employee. Again the employee's views must be sought and if, in the event of funds not being secured, the employee should be made aware that they are still 'at risk' of redundancy.
- vi) After the appropriate consultation period, Human Resources will write to each member of staff giving them formal notification of the end of their contract. In accordance with best practice, to allow for adequate consultation and assistance in considering and seeking suitable alternative employment, the letter will be sent in line with the member of staff's contractual notice period (for example, this could be as much as twelve weeks prior to the contract end date in instances where contractual/statutory notice is three months), confirming the date that their contract will end and that they have the right to appeal against the decision.
- vii) Where an employee has indicated that if possible he/she would like to be re-deployed, Human Resources will keep in regular contact with the employee throughout their notice period and continue to consider and seek suitable alternative employment opportunities within the College.

- viii) If suitable alternative employment is not found and /or confirmation of funding has not been received, Human Resources will write to the employee confirming that they are being made redundant and enclose a leaver's form for the employee to complete. Where the employee has completed 2 full years' continuous service or more, and if the reason that the contract is not going to be renewed is that the work will cease or diminish, the non-renewal will be equivalent in law to a dismissal for reason of redundancy and a statutory redundancy payment is normally payable (Redundancy payments are normally made from the budget from which the employee is funded.). Human Resources will send the leaver's form (with a covering memo and copy of the redundancy calculation, if applicable) for each member of staff whose contract has ended to Payroll so that they can make arrangements for the employee's final salary.

### **3. INFORMATION FOR FURTHER GUIDANCE**

- 3.1 If you require background information about any aspect of this procedure then do not hesitate to contact your Human Resources Manager. Please also see Researchers, Fixed Term Contracts and Universities – Understanding the law in context – Vitae supported by Research Councils UK (RCUK).

### **4. APPEALS PROCEDURE**

- 4.1 A member of staff who wishes to appeal against the decision to end their fixed term contract must submit notice of their appeal in writing to the Director of Human Resources within 10 working days of receipt of the formal notification of termination of employment setting out the grounds of the appeal. (Please see Redundancy Policy and Procedure – section 12).

## **Checklist for Individual Employee Redundancy Consultation Meetings**

1. Check the employee has been given the opportunity to be accompanied to the meeting by a workplace colleague or recognised trades unions' representative. If they have not ensure they are happy to proceed without a companion. In the event that they are not happy to proceed re-arrange the meeting.
2. Explain the purpose of the meeting is to discuss a potential redundancy situation and reasons for this e.g. P4Change, expiry of funding, decision to reduce staffing budgets in the forthcoming academic year.
3. In respect of Research Staff explain possibility of bridging funding.
4. Explain the selection process/criteria.
5. Ask if they have any questions, representations or suggestions and give them a full opportunity to state their case.
6. Explain the College will consider and identify suitable alternative employment and ask for an up to date CV and expressions of interest in other roles in the College. Explain they will be sent a SAE questionnaire.
7. Explain that a letter will be sent to them giving them notice that they are 'at risk' of redundancy. Reassure them that HR will keep in contact with them and continue to look for suitable alternative employment during the notice period. Also explain that they are entitled to reasonable time off to look for a new role.
8. Explain that any entitlement to a redundancy payment will be based on more than 2 years continuous service.
9. Explain that if the College is unable to find suitable alternative employment and unless there is a change in the situation they will be sent a letter confirming the termination of their employment and redundancy payment (if applicable).
10. Explain that they have the right of appeal against their selection for redundancy.
11. Ask them if there is anything else they would like to ask or bring to the College's attention at this stage.



### Suitable Alternative Employment Questionnaire

The details submitted on this form will be used for the purposes of looking for suitable alternative employment only:

1. Name:	2. Line Manager:
3. Current Post:	4. Current Department/School:
5. What are your current work pattern and hours of work?	6. Current work FTE:
	7. Grade:
8. Please describe any specialist or non standard aspect(s) to your role:	
9. Please describe any duties and functions undertaken but not reflected in your current job description:	
10. What aspect(s) of your current role do you find most fulfilling?	
11. If reasonably possible, what aspect(s) of your role would you like to retain if suitable alternative employment can be found?	
12. If a choice existed which areas of activity would you like to work in?	

13. Please describe any skills, strengths, abilities and working styles that you would like taken into account:
14. Please state any current staff training & development commitments:
15. Please state any changes that you would be able to make to your work pattern and hours of work, if reasonably possible:
16. Any other comments:

Please sign this form and return it to your HR Assistant NAME along with a copy of your Curriculum Vitae:

Employee signature:	Date:
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