

UNIVERSITY OF EXETER

PROCEDURE FOR NON-RENEWAL OF A FIXED TERM CONTRACT

Approved by Council on 19 November 2020

This version takes effect from 1 January 2021

Procedure for the non-renewal of a fixed-term contract

1. Principles and standards

- 1.1 These procedures apply to all members of staff except those engaged on a claims basis.
- 1.2 The purpose of this procedure is to ensure that decisions made on the expiry of fixed term contracts are taken consistently and fairly in every case, taking account of relevant employment law and good employment practice.
- 1.3 Where there is an issue as to the meaning of 'academic freedom' in any proceedings under these Ordinances, regard shall be had to the agreement with the University and College Union regarding the definition of academic freedom dated 31 July 2009.
- 1.4 UK Employment Law defines the ending, i.e. non-renewal, of a fixed-term appointment on its expiry as a dismissal: consequently, this procedure uses the term 'dismissal'.
- 1.5 An employee can elect to be accompanied by a fellow worker or trade union representative at any meeting under the formal stages of these procedures.
- 1.6 If the companion is unavailable at the time a meeting under paragraph 4.2 of this procedure is scheduled then the employee can ask for the hearing to be postponed for up to one week, on one occasion only. Following such a postponement, the University reserves the right to proceed with the meeting in the employee's absence.
- 1.7 References to academic managers in these procedures means staff in the academic job families with line management responsibility.
- 1.8 References to the Director of Human Resources ("HRD") include their designate.

2. Scope and definitions

- 2.1 This procedure applies to the proposed dismissal of an employee where the reason for the proposed dismissal arises from the expiry without renewal of a fixed term contract (fixed term contract) where the overall duration of the fixed term contract period (including any renewals or extensions) is 21 months or less, and/ or where the reason for non-renewal is not by reason of redundancy e.g. where the fixed term contract is used to cover maternity leave or other long term absences or secondments or work on a specific and time limited project outside business as usual.
- 2.2 For the purposes of this Procedure, a fixed-term contract is a contract which is not of indefinite duration and which contains provision for the contract to terminate on a specified date or by virtue of the expiry of a fixed-term, or on the performance of a specific task or on the occurrence of an event or the failure of a specified event to occur.
- 2.3 This procedure does not apply where a fixed term contract could end early as a result of a restructure/redundancy situation where the Redundancy Procedure will apply.
- 2.4 This procedure does not apply where the grounds for the proposed dismissal are discipline, capability/performance, ill health/incapacity, retirement or circumstances covered by the procedure for dismissal on other grounds or to dismissals taken under the procedure for non-confirmation of probation.
- 2.5 This Procedure shall not apply to the removal from appointment as Deputy-Vice Chancellor, Faculty Pro-Vice-Chancellor or such other posts as have been designated by the Council to which an employee has been elected or appointed and which is distinct from that individual's substantive post, where dismissal from the substantive post

is not contemplated.

3. Stages in the Procedure

- 3.1 In good time (ideally at least six weeks) before commencement of the relevant employee's notice period, the nominated manager in the Faculty/Professional Services Division should notify the HR representative for their area whether or not the employee's fixed term contract is likely to be renewed or extended. Where it appears at that stage that extension is unlikely, the nominated manager should explain the reasons for this to HR.
- 3.2 Where the reason for non-renewal is redundancy (i.e. work of the particular kind being carried out by the employee has ceased or diminished), the nominated manager should inform the HR Representative whether or not there are any other employees in the area carrying out the same role and/or with the same skill set.
- 3.3 The nominated manager in consultation with the HR Representative will consider whether any other employees in the area should be included in the pool for selection (i.e. the group of employees from which those who are to be made redundant will be drawn) or whether there is a 'pool of one' (i.e. there is no-one else carrying out the same or similar role, or with the same or interchangeable skills).
- 3.4 Paragraphs 3.2 and 3.3 above will not apply where the reason for non-renewal is not by reason of redundancy e.g. where the fixed term contract is used to cover the absence of a permanent employee (e.g. maternity cover) or to work on a specific and time limited project outside 'business as usual'.

4 Where the reason for non-renewal is not redundancy

- 4.1 In good time (ideally at least one month) before commencement of the relevant employee's notice period, the nominated manager shall write to the employee to explain the circumstances which may result in their dismissal, and to invite the employee to attend a meeting with the nominated manager to explain why their fixed term contract will end and will not be renewed and to provide them with an opportunity to ask questions about this, make oral or written representations and propose alternatives to dismissal.
- 4.2 The employee will normally be given at least one week's notice of the meeting, but this time limit may be varied by mutual agreement. The nominated manager may be accompanied by a representative from Human Resources. The employee has the right to be accompanied by a fellow worker or trade union representative.
- 4.3 Taking account of all the information provided and the representations made, and with the guidance from the HR Representative for the Faculty or Professional Services Division, the manager shall decide whether the employee shall be given notice of dismissal.
- 4.4 Following the meeting, the employee shall be advised in writing of the decision taken and the reasons for it. Where the decision is that the employee is to be dismissed, the letter shall:
 - summarise the reasons for the dismissal;
 - give notice of dismissal;
 - advise them of their right to appeal.

Where the reason for non-renewal is redundancy

5. Procedure where a pool does not exist ('Pool of one')

- 5.1 In good time (ideally at least one month) before commencement of the relevant employee's notice period, the nominated manager shall write to the employee to explain the circumstances which may result in their dismissal, and to invite the employee to attend a meeting with the nominated manager to explain why they have been selected for redundancy and to provide them with an opportunity to ask questions about their selection for redundancy, make oral or written representations and propose alternatives to dismissal.
- 5.2 The employee will normally be given at least one week's notice of the meeting, but this time limit may be varied by mutual agreement. The nominated manager may be accompanied by a representative from Human Resources. The employee has the right to be accompanied by a fellow worker or trade union representative.

- 5.3 Taking account of all the information provided and the representations made, and with the guidance from the HR Representative for the Faculty or Professional Services Division, the manager shall decide whether the employee shall be given notice of dismissal on grounds of redundancy.
- 5.4 Following the meeting, the employee shall be advised in writing of the decision taken and the reasons for it. Where the decision is that the employee is to be dismissed, the letter shall:
- summarise the reasons for the dismissal and why they were selected;
 - give notice of dismissal on the grounds of redundancy;
 - advise them of their right to appeal;
 - Confirm the redundancy payment that will be made if eligible;
 - Confirm redeployment status where eligible.

6. Procedure where a pool exists

- 6.1 Where following consultation under paragraph 3.3 a pool is identified, the nominated manager will write to those employees falling within the pool for selection to explain the circumstances which may result in their dismissal and to confirm:
- the pool for selection from which redundancies will be effected by the application of selection criteria;
 - the total number of staff employed in that group of affected staff (i.e. the number of roles 'at risk');
 - the total number of staff to be dismissed from that group by reason of redundancy;
 - the selection criteria to be used to determine which employees within the affected group are to be provisionally selected for redundancy;
 - who will assess the staff within the affected group against the selection criteria;
 - when the assessment of affected staff against that criteria will take place.
- 6.2 Selection may be by scoring those employees in the relevant 'pool' against an agreed set of objective selection criteria or by competitive interview or other assessment appropriate to the nature of the role.
- 6.3 Taking account of guidance of the HR Representative, the nominated manager shall decide who shall be provisionally selected for redundancy.
- 6.4 Before an employee who has been provisionally selected for redundancy is given written notification of dismissal on the grounds of redundancy, they will be invited to attend a meeting with a nominated manager to explain why they have been selected for redundancy and to provide them with an opportunity to ask questions about their selection for redundancy, make oral or written representations and propose alternatives to dismissal.
- 6.5 Following the meeting, written notification will sent to employees who are to be dismissed. The written notification shall:
- summarise the reasons for the dismissal and why they were selected;
 - give notice of dismissal on the grounds of redundancy;
 - advise them of their right to appeal;
 - Confirm the redundancy payment that will be made if eligible;
 - Confirm redeployment status where eligible.
- 6.6 Those employees within the relevant group of affected staff not provisionally selected for redundancy shall be advised in writing that, although not provisionally selected at this stage, that position could change as a result of meetings with or appeals by provisionally selected employees under this Procedure.

7. Appeal

- 7.1 An employee has a right of appeal against a decision made to terminate their employment following the application of the procedure in paragraph 4, 5 or 6.
- 7.2 The right of appeal must be exercised within 14 days of the date of the written outcome under paragraph 4.3, 5.3 or 6.5.
- 7.3 The appeal, stating the grounds on which it is made, must be in writing addressed to the Director of Human Resources.
- 7.4 An appeal will be heard by a panel comprising two senior managers who have had no previous involvement in the case.
- 7.5 The University will aim for an appeal to be heard within 21 days of the appeal being lodged, unless otherwise agreed between the parties.
- 7.6 The appeal will be a review of the decision taken by the nominated manager.
- 7.7 The appeal panel may:
- confirm the decision to dismiss the member of staff;
 - revoke the decision to dismiss and reinstate the member of staff; or
 - remit the decision to be considered further in accordance with the selection process under paragraph 4, 5 or 6, as the Appeal Panel shall specify.
- 7.8 The decision of the appeal panel shall be final within the procedures of the University.
- 7.9 An appeal will not delay dismissal, but where an appeal is successful then the employee will be reinstated.

This version was created on 18 November 2021, renumbering paragraphs and correcting minor drafting errors for clarification.

Updated Oct 22 to reflect new structures/leadership roles
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