

Policy on the Employment of Fixed-Term Staff

1 Introduction

1.1 The School of Oriental and African Studies (the School) values the contribution of staff employed on fixed-term contracts, who play a key role in the success of SOAS, particularly in teaching and research. The School is committed to ensuring that fixed-term employees are treated equitably in all areas of employment, including terms and conditions of employment, career and staff development, promotion and at the expiry of their contract.

1.2 This Policy supports the implementation of “The Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations” 2002 (henceforth, the “Regulations”) at the School.

1.3 The “Regulations” give fixed-term employees additional protection in law; key provisions of the regulations are as follows:

- a. The right not to be treated less favourably than comparable permanent employees, including in terms and conditions of employment
- b. The right to be informed of available vacancies in the organisations
- c. Limits of the successive use of fixed-term contracts
- d. The right to receive a redundancy payment at the ending of a fixed-term contract of two years or more
- e. The right to receive a written statement explaining any difference in treatment

1.4 Each of these aspects of the “Regulations” is addressed in section 3 of this Policy below.

1.5 The Policy operates within the context of the nationally agreed Joint Negotiating Committee for Higher Education Staff (JNCHES) Guidance on Fixed-term and Casual Employment.

1.6 The Policy is underpinned by [Procedures](#) which form the basis for implementation of section 3.7 below.

2 Scope

2.1 This Policy applies to all staff at the School but two distinct associated Procedures apply to different groups of staff.

2.2 Teaching & Research (academic) fixed-term employees are covered by Standing Order X, Part V and the underpinning Procedure for the ending of fixed-term contracts.

2.3 All other employees are covered by the [Procedure for the ending of fixed-term contracts for Teaching & Scholarship, Research, Support and Casual staff](#).

3 Principles

3.1 Terms and Conditions of employment

3.1.1 Staff employed on fixed-term contracts will be employed on no less favourable terms and conditions to comparable permanent employees. Any differences in the terms and conditions of employment of fixed-term staff will be objectively justified.

3.1.2 Certain terms and conditions of employment may be pro-rata for fixed-term staff as appropriate to the circumstances. For example, annual leave entitlement for fixed-term staff who are employed for less than a full leave year will be pro-rata.

3.1.3 Any employee who is concerned that they may be being employed on less favourable terms and conditions than a comparable permanent employee should write to the Human Resources Directorate. The Human Resources Directorate will respond within 21 days of the request by explaining the objective justification for any difference in treatment or terms and conditions, as appropriate.

3.2 Appointment of fixed-term staff

3.2.1 The School undertakes only to appoint to fixed-term positions where there is an objective reason for the post for a fixed period of time. Where there is no objective justification for an appointment to be fixed-term, the appointment should be made on a permanent basis.

3.2.2 The following circumstances could constitute an objective justification for a fixed-term position

- a. To cover staff absence such as research leave, maternity leave or long-term sickness absence
- b. The contract is to provide a secondment or career development opportunity
- c. The post requires specialist expertise or input from specialist practitioners, not already available in the School in the short term, for a limited period or for a project/activity lasting for a limited duration.
- d. Where student or other business demand can be clearly demonstrated as particularly uncertain, such as the development of a new course or service.
- e. Externally funded posts where there is no reasonably foreseeable prospect of short-term funding being renewed nor other external or internal funding becoming available. Where short-term funding has already been renewed, continuing use of the fixed-term contract would need to be justified by objective reasons, e.g. a Research Assistant position funded by a research grant for three years.

3.2.3 This list of objective reasons for a fixed-term contract is not exhaustive. If a fixed-term appointment is required in circumstances not listed above, consultation will be carried out with the appropriate trade union(s) and the objective justification must be agreed by the

Director of Human Resources (or nominee). This does not of course, negate the duty of a Recruiting Manager to obtain the appropriate approval for the vacancy. For further information on the use of objective justifications please refer to associated guidance.

3.2.4 Recruiting Managers must state the objective justification for any fixed-term position on the appropriate appointment form or when seeking approval for the post via the online web recruitment system. This information should be provided to all appointees. This should include a brief explanation of the reason the particular objective justification has been selected.

3.3 Vacancy information

3.3.1 Fixed-term employees have a right to be informed of available vacancies in the School.

3.3.2 All vacancies of over six months' duration, should be advertised on the School's internal and external vacancy pages on the Human Resources Directorate website in accordance with the School's Recruitment Policy. This includes new fractional teaching vacancies which are advertised on the School's vacancy page using Talent Pool functionality. Exceptions to this may include cover for maternity, shared parental and adoption leave.

3.3.3 Fixed-term employees who are unable to access the School's vacancy page for any reason should contact their designated Recruitment and Operations Officer, so that alternative arrangements can be made for them to be provided with vacancy information

3.3.4 Fixed-term employees will have the opportunity to apply for permanent vacancies in the School and should be encouraged and supported to do so by their line managers. Line managers should ensure that fixed-term employees are permitted to attend interviews for School vacancies during normal working-time.

3.3.5 Fixed-term employees will have the opportunity to use any appropriate School resources to help them secure permanent employment at the School, including attending appropriate staff development activities, accessing information from the Staff Learning and Development resource materials library and Careers Service resources.

3.4 Training and career development

3.4.1 Fixed-term employees at the School should be given appropriate opportunities to enhance their skills and for career development at the School.

3.4.2 In accordance with the School's [Staff Development Policy \(msword; 107kb\)](#) , fixed-term employees will have the same opportunities as comparable permanent employees to access staff development activities such as in-house training events or externally funded events.

3.5 Successive fixed-term contracts of four years or more

3.5.1 Fixed-term staff with over four years' service, and who meet the criteria set out in 3.5.2, will be entitled to permanent status unless fixed-term employment can be objectively justified. Periods of employment for training/work experience would not count towards this continuous service i.e. Graduate Teaching Assistant posts.

3.5.2 Fixed-term employees will have the right to transfer to permanent employment if the following circumstances apply:

- a. They have four or more years' continuous employment with the School, AND
- b. Their current fixed-term contract has been renewed or extended AND
- c. At the time of the most recent renewal or extension of fixed-term contract, there was no objective justification for the use of a fixed-term employment.

3.5.3 In such circumstances, the reasons set out in 3.2.2 could constitute objective justification for the position remaining fixed-term

3.5.4 The objective reasons justifying the continuing use of fixed-term contracts is not exhaustive. Any other objective justification for the continuing use of a fixed-term contract beyond four years in the circumstances above, must have been agreed by the Director of Human Resources (or delegate) following consultation with the appropriate trade union(s). This does not of course, negate the duty of a manager to obtain the appropriate approval for the extension/renewal/change of contract in accordance with School financial regulations.

3.5.5 Any fixed-term employee who meets the criteria outlined above, has the right to formally write to the Human Resources Directorate, requesting that their appointment be made permanent.

3.5.6 A request will be referred by the HR Business Partner to the Head of Department/Director of Professional Service, who will take advice from HR and Department colleagues as necessary to establish whether the circumstances listed in 3.5.2 apply. The Head of Department will then submit a recommendation for approval to the appropriate Pro-Director/Registrar/Deputy Chief Operating Officer.

3.5.7 Following this consultation and within 21 days of the request from the employee in accordance with 3.5.5 above, the Human Resources Directorate will issue a permanent contract of employment to the member of staff, unless the contract can be objectively justified as fixed term.

3.5.8 In cases where there is an objective justification for the contract remaining fixed-term as outlined above, the Human Resources Directorate will write to the employee explaining the objective justification for their employment remaining fixed-term within 21 days of the original request from the employee in accordance with [3.5.5](#) above.

3.5.9 If the employee is unhappy with the School's response in [3.5.8 above](#), they would be entitled to raise a grievance in accordance with the appropriate policy.

3.6 Review of use of fixed-term contracts

3.6.1 Heads of Department and Directors of Professional Services (or their nominees) in conjunction with the HR Business Partner Team should regularly review the use of fixed-term contracts in their sections, as part of their monthly Business Planning meetings, with a view to transferring any fixed-term staff to permanent appointments unless there remains an objective justification for the post remaining fixed-term.

3.6.2 Fractional Teaching Staff: In the case of fractional teaching staff, the process for requesting permanency is the same as that outlined in section 3.5 above. However, the following principles will also be applied:

i. Initial request for substantive (open-ended) fractional appointment

A permanent fraction will be determined by calculating the average of the hours worked during the two median years over the past four academic years. This calculation can be completed by removing the years with the highest and lowest number of hours worked and then calculating the average value of the two remaining figures.

For Example:

Year 1	Year 2	Year 3	Year 4
100 hours	110 hours	120 hours	80 hours

Mean Average = 100 hours + 110 hours divided by 2 = 105 hours

ii. Review of permanent fractional contract

A member of staff can request a review of their permanent fractional contract. The revised fraction will be determined by calculating the mean average of the hours worked during the two median years when looking over the past four academic years. See above example.

3.7 Expiry of fixed-term contracts

3.7.1 The expiry of fixed-term contracts for support, research and fractional teaching staff will be conducted in accordance with the [Procedure for the Expiry of Fixed Term Contracts for Teaching & Scholarship, Research, Support and Casual Staff Groups](#).

3.7.2 The expiry of the fixed-term academic contracts will be managed in accordance with Standing Order X, Part V, section 15 and the supporting Procedure.

3.7.3 Line managers should consult with individual staff in line with the relevant procedures on the expiry of their fixed-term contract and should actively seek possible alternatives to dismissal such as renewal of contract or redeployment into suitable alternative posts within the School, liaising with the Human Resources Directorate to identify alternative employment opportunities across the School.

3.7.4 Collective consultation on the expiry of fixed-term contracts will take place through the School's normal union consultation forums, as appropriate.

3.7.5 Staff whose fixed-term contracts are ending and where redeployment has not proved possible, should be given appropriate support to enable them to find alternative employment, including attending any appropriate staff development activities and time off work to attend interviews.

3.7.6 Non-renewal of fixed-term contracts for reasons of pregnancy or related reasons, is unlawful. Employees whose maternity leave will coincide with the expiry of their fixed-term contract, should contact their designated Human Resources Officer for advice. The School's current maternity leave procedure can be found on the HR Directorate website.

4 Definitions

Professional Services Directorate: relevant Directorate such as Library and Information Services, Finance and Planning or Estates and Facilities.

Manager of Service Section: a manager of a team or section which forms part of a Directorate and will normally report to a Director of Professional Services.

Line manager: the line manager will be the individual nominated by the Head of Department/Director of Professional Services or Head of IFCELS to have supervisory responsibility over the employee.

Fixed-term employee: an employee whose contract of employment will end on the expiry of a specific date/term or on the completion of a particular act. This may include appropriate hourly paid or fractional staff.

Continuous service: employment service with the School that is unbroken by resignation, dismissal or gaps where the employee does not work for the School. In some instances, regular gaps (i.e. custom and practice break) in employment which form a pattern may not break service; for example, where an employee has been employed on a succession of annual fixed-term contracts from October to March, with regular gaps over the summer period. Leave of absence such as sick leave, maternity leave or research leave will not normally break continuous service with the School. Employees who are not eligible for research leave may wish to apply for unpaid leave to maintain continuous service.

Comparable permanent employee: a permanent employee who undertakes the same or broadly similar work (having regard, where relevant to the level of qualifications and skills) as a fixed-term employee. This is a legal term under the "Regulations".

Objective justification: is a legal definition under the "Regulations" which largely means a good operational/organisational reason which justifies certain treatment. Any objective justification has to be aimed at achieving a legitimate objective (e.g. a genuine operational or organisational objective) and must be a necessary and appropriate way of achieving that

objective. JNCHES (see below) have agreed a list of circumstances which constitute objective justifications. These circumstances are outlined in the relevant sections of this Policy.

Joint Negotiation Committee for Higher Education Staff (JNCHES): is a national negotiating body in higher education which includes the Universities & Colleges Employer's Association (UCEA) who represent Higher Education (HE) employers and six HE trade unions including UCU and Unison.

5 Review

5.1 Reports and statistics on the employment of fixed-term staff will be made to the School's Human Resources Committee and trade union fora.

5.2 Reports on fixed-term staff and equal opportunities monitoring information will be made to the School's Equality & Diversity Committee to ensure that fixed-term contracts are not used in a discriminatory way at the School.

5.3 To ensure compliance with this Policy and accompanying procedures, a senior member of the Human Resources Directorate may be invited or elect to attend any stage of the recruitment process.

5.4 This Policy will be reviewed regularly in line with any changes in employment legislation.

6 Equality and Diversity

6.1 The School is committed to ensuring that protected characteristics are taken into consideration in the development and implementation of any policy, process or procedure, including decision making. This policy has been developed in accordance with the terms of the SOAS Equality, Diversity and Inclusion Strategy and the Equality Impact Assessment procedure. This will help ensure that the School meets its Public Sector Equality to:

- a. Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act (2010);
- b. Advance equality of opportunity;
- c. Foster good relations between people who share a protected characteristic and those who don't.

If you have any queries regarding this policy or its application, please contact your HR Employee Relations Consultant or the Human Resources Equality Adviser.

7 Associated Policies and Procedure

7.1 Equality and Diversity Policy

7.2 [Recruitment Policy](#)

7.3 Standing Order X

7.4 [Procedure for the Expiry of Fixed Term Contracts for Teaching & Scholarship, Research, Support and Casual Staff Groups.](#)

7.5 [Staff Development Policy \(msword; 107kb\)](#)

7.6 [Grievance Procedures](#)

7.7 Maternity Policy

7.8 [Redeployment Policy \(pdf; 22kb\)](#)

7.9 [Fractional Teachers Policy](#)

Human Resources Directorate

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