

# 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 staff 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” are addressed in section 3 of this Policy below.
- 1.5 In addition, the Employment Act 2002 (Dispute Resolutions) Regulations 2004, give fixed-term staff additional rights to consultation and appeal meetings on the ending of their fixed-term contract.
- 1.6 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.
- 1.7 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 Academic fixed-term staff are covered by Standing Order XI, Part V and the underpinning Procedure for the ending of fixed-term contracts for academic staff.
- 2.3 All other staff are covered by the Procedure for the ending of fixed-term contracts for support staff and hourly paid teaching staff.

### **3 Principles**

#### **3.1 Terms and Conditions of employment**

- 3.1.1 Staff employed on fixed-term contracts will be employed 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 Department. The Human Resources Department will respond within 21 days of the request by explaining the objective justification for any difference in treatment or terms and conditions.

#### **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 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. The post requires specialist expertise or recent experience not already available in SOAS in the short term
  - b. To cover staff absence such as research leave, maternity leave or long-term sickness absence
  - c. The contract is to provide a secondment or career development opportunity
  - d. Where input from specialist practitioners is required for a limited period or for project/activity lasting for a limited duration.
  - e. Where student or other business demand can be clearly demonstrated as particularly uncertain, such as the development of a new course or service.
  - f. 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. An example, could be a Research Assistant position funded by a research grant for three years.
  - g. Where the post is wholly or largely supporting a specific business or academic function/activity which the School has decided to cease in the future.

- 3.2.3 This list of objective reasons for a fixed-term contract is not exhaustive. If a fixed-term appointment is required for a objective justification 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 in accordance with “Staffing Costs: Authorisation levels” guidelines.
- 3.2.4 Recruiting Managers must state the objective justification for any fixed-term position on the appropriate Recruitment form (R1 or R2 form) and this information should be provided to all candidates.

### **3.3 Vacancy information**

- 3.3.1 Fixed-term staff have a right to be informed of available vacancies in the School.
- 3.3.2 New hourly-paid teaching vacancies are normally advertised to all staff/students in the relevant Centre/Department/Faculty via email lists and/or notice boards as a minimum but Deans of Faculty and Heads of Department are encouraged to advertise these vacancies on the School’s vacancy page.
- 3.3.3 All other vacancies of over six months duration, are advertised in the School’s vacancy page on the Human Resources Department website in accordance with the School’s Recruitment Policy.
- 3.3.4 Fixed-term staff who are unable to access the School’s vacancy page (for example, staff with visual impairments who are unable to access the website) should contact their designated Human Resources Officer, so that alternative arrangements can be made for them to provided with vacancy information.
- 3.3.5 Fixed-term staff should have the opportunity to apply for 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.
- 3.3.6 Fixed-term staff should be encouraged 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 Development resource materials library and Careers Service resources.

### **3.4 Training and career development**

- 3.4.1 Fixed-term staff 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, fixed-term staff 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 Under the “Regulations”, special rules limit the use of successive fixed-term contracts and give certain fixed-term staff with over four year’s service, the right to permanent employment unless fixed-term employment can be objectively justified.
- 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 SOAS after 10 July 2002. Any service prior to 10 July 2002 is discounted.
  - b. Either:
    - their current fixed-term contract has been renewed or extended *or*
    - they have been previously been employed by the School on another fixed-term contract prior to the start of their current contract
  - c. Either
    - at the time the fixed-term contract started, there was no objective justification for the fixed-term employment.
    - 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 following reasons could constitute objective justification for the position remaining fixed-term:
- a. The post is covering staff absence such as research leave or long-term sickness absence
  - b. The contract is to provide a secondment or career development opportunity
  - c. Externally funded posts where there is no reasonably foreseeable prospect of short-term funding being renewed nor other external or internal funding becoming available
  - d. Externally funded posts where funding has previously been renewed but there is no reasonably foreseeable prospect of further renewals in funding nor alternative external or internal funding becoming available.
  - e. Where student or other business demand can be clearly demonstrated as continuing to be particularly uncertain in the future
  - f. Where the post is wholly or largely supporting a specific business or academic function/activity which the School has decided to cease in the future.
  - g. Where input from specialist practitioners is required for a project or activity lasting for a limited duration and the specialist input is not required on an on-going basis.
- 3.5.4 This list of 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 other nominated HR officer) 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 set out in “Staffing Costs: Authorisation levels” guidelines.

- 3.5.5 Any fixed-term employee who meets the criteria outlined above, has the right to formally write to the Human Resources Department, asking for confirmation that their appointment has become permanent.
- 3.5.6 On the receipt of such a written request, the Human Resources Department will consult with the relevant Dean of Faculty/Head of Service Area as to the circumstances of the appointment and to verify if the post can be objectively justified as continuing on a fixed-term basis.
- 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 Department will issue a permanent contract of employment to the member of staff, unless the contract can be objectively justified as fixed term as outlined above.
- 3.5.8 In cases where there is an objective justification for the contract remaining fixed-term as outlined above, the Human Resources Department 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 As part of the implementation of this policy, and in consultation with the School’s recognised trade unions, the School will review its use of fixed-term staff and transfer staff employed on fixed-term contracts to permanent appointments on suitable terms and conditions where appropriate, and the use of fixed-term contracts cannot be objectively justified.
- 3.6.2 Thereafter, Deans of Faculty and Heads of Service Areas (or their nominees) in conjunction with the HR Department should regularly review the use of fixed-term contracts in their sections, with a view to transferring any fixed-term staff to permanent appointments unless there remains an objective justification for the post remaining fixed-term.

### **3.7 Expiry of fixed-term contracts**

- 3.7.1 The expiry of fixed-term contracts for support staff and hourly paid teaching staff will be conducted in accordance with the Procedure for Ending Fixed Term Support Staff and Hourly Paid Teaching Staff Contracts.
- 3.7.2 The expiry of the fixed-term academic contracts will be managed in accordance with Standing Order XI, 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.

**3.7.4** Where a contract is to be terminated, the following procedure should be adopted:-

- a) up to four months before the expiry of the contract all the alternative options should be considered (e.g. renewal, redeployment etc)
- b) up to three months before the expiry date, consultation should take place with the postholder on the prospects for alternative options, taking account of the postholder's aspirations
- c) the postholder should be reminded of access to information about other positions within the School

In exceptional circumstances it is recognised that it may not be possible to adhere strictly to these timescales.

**3.7.5** The Human Resources Department will provide information to the School's recognised trade unions about staff currently employed on fixed-term contracts whose contracts are about to expire. Further collective consultation on the expiry of fixed-term contracts will be take place through the School's normal union consultation forums, as appropriate.

**3.7.6** 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.

**3.7.7** 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 Department website.

## **4 Definitions**

**Area:** the term area means the relevant Academic or Service Department.

**Service area:** administrative department such as the Library, Finance or Information Technology.

**Head of Service Area:** e.g. Librarian, Head of Finance, Director of Human Resources.

**Line manager:** the line manager will be the individual nominated by the Dean of Faculty or Head of Service Area to have supervisory responsibility over the employee.

**Fixed-term employee:** a member of staff 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 part-time staff.

**Continuous service:** employment service with the School that is unbroken by resignation, dismissal or gaps where the employee does not work for SOAS. In some instances, regular gaps 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 September to July, 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. Staff 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.

**Statutory Dismissal Procedure:** is a standard legal procedure which applies to most dismissals including the expiry of a fixed-term contract. Employees are entitled to be accompanied by a work colleague or a trade union representative during meetings held under the statutory dismissal procedure. The Statutory Dismissal Procedure requires employers to follow a minimum three step procedure when the fixed-term contract of employment ends;

- Step 1     *Write*  
Write to the employee informing them that their contract will end, explaining the reasons for this and inviting them to a meeting to discuss the dismissal
- Step 2     *Meet and discuss*  
Hold a meeting with the employee to discuss the dismissal and after the meeting confirm the decision to end the contract
- Step 3     *Appeal*  
If the employee wishes to appeal, hold an appeal meeting and then confirm the final decision in writing.

**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.

**Framework Agreement on Pay Modernisation in Higher Education:** the

Framework Agreement has been agreed by JNCHES and aims to modernise pay structures in higher education by the introduction of a single national pay spine and establishing the principle of equal pay for work of equal value. Each Higher Education Institution, will, in partnership with its recognised trade unions, use analytical job evaluation schemes to implement the single pay spine and determine local grading structures. Information on the implementation of the Framework Agreement at SOAS will be found on the HR website following commencement of the project.

## **5 Implementation**

- 5.1 Currently the School employs a large number of fixed-term and casual employees to undertake a wide variety of work, on different terms and conditions.
- 5.2 As part of the implementation of the nationally agreed Framework Agreement on Pay Modernisation, the School is committed to reviewing the employment of its fixed-term staff, and transferring staff to permanent employment on appropriate terms and conditions where no objective justification for fixed-term employment remains and employing staff on comparable terms and conditions in cases where there are objective justifications for retaining staff fixed-term contracts.
- 5.3 The School and its trade unions recognise that this review process will need to be carried out thoroughly and in full consultation with staff and unions, and therefore, there will be a transition period until the completion of the review process when the Policy and accompanying Procedures will be fully implemented at the School. Both the School and trade unions are committed to a joint problem-solving approach to the review of fixed-term staff at the School and the implementation of this Policy.

## **6 Review**

- 6.1 Reports and statistics on the employment of fixed-term staff will be made to the School's Staffing Committee and trade union fora.
- 6.2 Reports on fixed-term staff and equal opportunities monitoring information will be made to the School's Equality Committee to ensure that fixed-term contracts are not used in a discriminatory way at the School.
- 6.3 To ensure compliance with this Policy and accompanying procedures, a senior member of the Human Resources Department may be invited or elect to attend any stage of the recruitment process.
- 6.4 This Policy will be reviewed regularly in line with any changes in employment legislation.

## **7 Equality and Diversity**

- 7.1 The procedures outlined here should be carried out with due regard to any diversity issues which may have affected either the original situation or the current process. The School's Diversity Adviser and

diversity specialists within the Human Resources Department are available to support colleagues in this area. Where a diversity issue (e.g. a disability including chronic physical or mental health conditions) has been disclosed to the School, whether prior to the situation which triggered this process or during the process, the line manager co-ordinating the process is responsible for checking with the employee to determine their needs and for making the appropriate arrangements. Employees who have not previously disclosed a diversity issue which may be relevant to this process are encouraged to do so, as early as possible, so that it can be taken into account.

## **8 Associated Policies and Procedure**

- 8.1 Equality and Diversity Policy
- 8.2 Recruitment Policy
- 8.3 Standing Order XV
- 8.4 Procedure for the ending of fixed-term contracts for support staff and hourly paid teaching staff.
- 8.5 Staffing costs: authorisation levels
- 8.6 Staff Development Policy
- 8.7 Change Management Policy
- 8.8 Grievance Procedures
- 8.9 Maternity policy

## **9. Approval**

- 9.1 This Policy was agreed with UCU and UNISON on 30 January 2007.
- 9.2 This Policy was formally approved by Staffing Committee on 1 March 2007.