

## **Policy for the use of fixed-term contracts**

### **1. Introduction**

Brighton and Hove City Council (BHCC) recognises that not all employment opportunities that arise will be of a permanent nature. This document aims to set out the definitions of fixed-term contracts, describe the situations in which they can be fairly used and advise on the management of fixed-term contracts.

It is important that managers use the same standards and guidelines for recruitment, induction and probation for fixed term posts as for permanent posts.

### **2. Definitions**

The Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 came into force on 1 October 2002. The term “fixed-term contract” means a contract of employment that, under its provisions determining how it will terminate in the normal course, will terminate:

- a) on the expiry of a specific term or period. This period can, however, be shortened by appropriate notice given by either side within a specified period;
- b) on the completion of a particular task or job, or
- c) when a specified event does or does not happen.

The reason for the fixed-term nature of an appointment must be stated from the establishment of the post, throughout the recruitment process and in the contract of employment. In cases of doubt as to whether a post should be filled on a fixed-term basis, you should contact Human Resources.

Fixed-term employees enjoy all the legal protections that apply to permanent employees.

This policy is not intended to enable managers to deal with all issues regarding fixed-term staff without seeking specific advice from the HR Department.

### **3. Range of jobs that can be covered**

Fixed-term contracts can be used for all roles.

Please note this policy does not apply to the council’s Supported Placement Programme or work experience placements that are externally funded.

### **4. Circumstances in which fixed term contracts may be issued or extended**

- Covering long term sickness absence
- Covering for maternity/adoption/shared parental leave



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- Covering for other long-term absence
- Covering pending service redesign
- Funding project for a defined time period with a clear start and finish date
- Legal right to live and work in the UK for a limited period

## **5. Circumstances in which fixed term appointments must not be used**

- a) to 'test out' a person in a post;
- b) for apprenticeships (there are separate arrangements for apprentices);
- c) for work experience opportunities or
- d) if someone is employed by an agency or are a contractor

## **6. Management of fixed-term contracts**

### **Responsibilities of Service Leads/Heads of Departments and line managers**

Service Leads/Heads of Departments/Managers are responsible for ensuring the following:

- a) the reason for the establishment of the fixed-term appointment is for one of the reasons listed under point 4 above
- b) an appropriate recruitment process is followed in line with the Recruitment and Selection Policy
- c) fixed-term contracts comply with BHCC's procedures
- d) keeping track of fixed term end dates via monthly Service Heads report to ensure conversations take place on a timely basis with employees and no later than 3 months before the expiry of the contract
- e) completing the staff amendment form on PIER no later the last working day before the 10<sup>th</sup> of the month of effective change, i.e. the month the fixed term contract is due to end, be extended or made permanent.

### **Responsibilities of Human Resources**

Human Resources and Business Operations teams are responsible for ensuring the following:

- a) fixed term contracts are recorded accurately
- b) contracts, letters of extension and termination are issued following receipt of the relevant information on PIER and advice is provided to employees and managers throughout the process
- c) sending prompts to managers reminding them of the expiry of fixed term contracts
- d) ensuring employees who qualify are added to the redeployment register two months prior to the end of the fixed term contract
- e) overseeing the redeployment process



## 7. Redeployment

The redeployment policy applies to fixed term contract employees if they meet the requirements set out in the Redeployment Policy.

## 8. Extending, renewing or ending a fixed term contract

It is the manager's responsibility to ensure they are aware when a fixed term contract is due to end and to take appropriate action within a timely manner.

Two months prior to the expiry of a fixed term contract, the line manager will receive a reminder the FTC is due to end. It is important the manager talks to the employee in good time? to give an indication of what is likely to happen at the end of their fixed term contract.

### Extension/ renewal of a fixed-term contract

If it is the intention to extend the current contract beyond the initial end date, the line manager must do the following:

- go to the PIER or onto Wave and complete the staff amendment form
- ensure this is done as early as possible to minimise uncertainty for the employee concerned. Please note this must be completed by the last working day prior to the 10<sup>th</sup> of the month the change is effective.

The line manager must ensure the reason for the fixed term contract to continue is for one of the valid reasons listed at point 4.

### Ending a fixed-term contract

If the line manager wishes to end a fixed term contract before the due end date, they must speak to their HR Business Partner/Consultant before taking any action as the law regards the ending of a fixed term contract as a dismissal.

Before dismissing, it is important to ensure that there is a fair reason to justify the dismissal and a full and fair procedure is followed. Failure to ensure this may result in a claim of unfair dismissal to be made to an employment tribunal if an employee has two or more years' service.

While a full and fair process must be followed there is no requirement for the employee or BHCC to give notice at the end of a fixed term contract where the end date is set out in the contract.

Ending the fixed-term contract on the basis of being employed under such a contract will not be fair unless this can be justified and the reason for the appointment of the fixed term contract, as detailed under point 4, no longer exists.



### **If the employee has less than two years' service at the due end of the FTC**

Line managers must do the following:

- a) discuss the decision with the employee to ensure they are kept informed
- b) complete the Leaver Form on PIER as soon as possible and no later than the last working day before the 10<sup>th</sup> of the month before the fixed term contract is due to end.

### **If the employee has two or more years' service at the due end date of the FTC**

Line managers must do/be aware of the following:

- a) Discuss with HR to determine if consultation is appropriate.
- b) The employee will be added to the redeployment register at the beginning of this process.
- c) Write to or email the employee informing them of the reasons why BHCC is proposing a termination of their employment and invite them to a meeting. Advise them of their right to be accompanied at this meeting to discuss this.
- d) Hold a meeting with the employee to discuss the nature of their fixed term contract coming to an end which will include any options for redeployment
- e) Outcome of the meeting may be to advise the employee that their contract be terminated.
- f) Keep notes of the meeting as a record.
- g) (Following the decision) complete the Leaver Form on PIER or the Wave.

Failure to follow this process puts BHCC at risk of an employment tribunal claim.

## **9. Redundancy payment**

An individual with two years or more service may be entitled to a statutory redundancy payment, if they are redundant and no suitable alternative job can be found, HR will notify the individual in their termination letter if this is the case. The redundancy payment will be funded from the departmental salary budget.

## **12 Appointing an individual to a fixed-term post that is to be made permanent**

Line managers must follow the usual authorisation process if they want to make a fixed term post permanent. In cases where the employee has more than two years' service, the employee on the fixed term contract will be offered a permanent contract.

In cases where the employee has less than two years' service the contract will usually be made permanent subject to the following:

- the employee was offered the fixed term contract following a competitive



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- process in accordance with the Recruitment and Selection Policy.
- the employee has successfully completed their probationary period.
- the employee is not currently subject to any formal capability or disciplinary procedures
- the roles and responsibilities of the post remain unchanged.

In the circumstances outlined above the post may go out to redeployment or be re-advertised before a decision is made. If a line manager would like to consider this option they must speak to HR.

If the decision is made to offer the fixed term employee a permanent contract the line manager should complete the Staff Amendment form on PIER as soon as possible

If there are a number of employees undertaking an identical role and only one permanent post, they should all be offered the opportunity to take part in the selection process.

This is to ensure

- all those employees have the chance to be considered for the permanent opportunity and
- there is a clear rationale for the decision.

Please seek advice from HR.

### **13. Using successive fixed-term contracts**

When an individual has been employed on one or successive fixed term contracts for two years they have the right to make a request to their manager that the fixed term nature of their contract be reviewed. Only contracts which can be objectively justified for one of the reasons listed in point 4 will continue to be fixed term.

When an individual has been employed on one or successive fixed term contracts for four years they will automatically become a permanent employee unless a further fixed term contract can be objectively justified for one of the reasons listed in point 4.

If a manager receives such a request, they should seek advice from HR.

