

CASUAL AND TEMPORARY EMPLOYMENT

POLICY

The Council recognises that from time to time, there is a requirement to recruit to jobs that are not of a permanent nature.

LEGISLATION

Employment Rights Act 1996: Provides for employees to be informed about their conditions of employment including their entitlements under the nature of their contract of employment.

Equal Pay Act 1970: Eliminates discrimination between men and women in basic rates of pay and other terms of their contract of employment.

Employment Protection (Part time employees) Regulations 1995: Provides for the protection of part time employees.

Equalities Legislation: Addresses the rights of individuals to be treated fairly and equitably and not to be discriminated against for reasons of race, gender and disability.

Aim

To regulate the employment of short term duration employees.

APPLICATION

Directly employed short term workers may be employed under a variety of contracts as defined below:

Temporary Employees

Temporary contracts provide for circumstances where the duties of the job are required for a limited duration and where the exact end date is not certain, e.g. cover for maternity leave, or where the job is dependent on external funding.

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Temporary contracts are also used where temporary employees are needed to complete a defined task, e.g. to clear a defined backlog of work, or to input data on a new system.

Fixed Term Employees

Fixed term contracts differ from temporary contracts in that they are constructed with a known beginning and end date. They should therefore be used in circumstances where the exact duration and end of the contract is known in advance, e.g. where funding (internally or externally) is provided for a specified period, or to undertake a particular piece of work within a specified time-scale.

Casual Employees

Casual employees differ from temporary employees in that they are not provided with regular guaranteed work but instead are called for work on an 'as and when' basis and, importantly, are free to turn work down if they choose to do so, e.g. a pool of 'relief' staff for residential establishments.

Seasonal Employees

Seasonal employees are recruited for a short period of time to cover seasonal fluctuations in workload e.g. horticulture.

Circumstances of Appointment

Employees should be appointed on a temporary/fixed term basis where:

- a) the need for the job is expected to be temporary, e.g. meeting peak workloads, seasonal requirements, or where the duration of the job is limited by finance available; or
- b) the need for a particular employee to do a job is temporary, e.g. covering for sickness, maternity or while a vacancy is being recruited to.
- c) It is otherwise in the interests of the Service/Business to do so, e.g. where a re-organisation is pending.

Employees should not be appointed on a temporary contract to assess their suitability for the job.

CONTRACTUAL ARRANGEMENTS

Contract of Employment

For contracts lasting for more than one month, employees are entitled to written details of terms and conditions of employment. This statement must be issued within two months of starting employment. Employees must be asked to indicate their acceptance in writing.

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Temporary and fixed term contracts must clearly state their temporary nature, and the event or, in the case of fixed term, the specified date, that will bring them to an end, e.g. the return to work of the permanent employee after maternity leave, or the date on which funding will cease. Where a contract is offered for a specific 'one off' task, the temporary contract must state clearly that it will last until the job is completed. Where a temporary or fixed-term contract is renewed, this should be confirmed in writing to the employee, and the renewal letter should include the details set out above, with appropriate amendments (e.g. new end date).

Probation

All employees newly appointed to the Council, unless on a contract of less than six months with no possibility of extending the contract, will be subject to probation. (See Probation policy). For contracts of less than six months, where an employee's performance is considered to be severely inadequate, the contract may be terminated early.

Terms and Conditions of Service

Temporary employees will be entitled to accrue leave and other service related benefits on the same basis as permanent employees. Casual employees will not be entitled to payment for annual leave or Bank Holidays, or for occupational sickness benefit.

Remuneration will be at an appropriate rate of pay for the job/duties they are appointed to undertake.

The Council's policy on Working Hours will apply to short term contracts.

Employees on short term contracts other than casual employees will automatically become contributors to the Local Government Pension Scheme provided they are eligible to join, unless they elect to do otherwise. Casual employees may become contributors to the Scheme if they elect to do so.

Extension

If a contract needs to be continued, a new contract must be issued restating any waiver provisions where appropriate.

Continuous Service

A series of short term contracts may constitute a continuity of service and may afford the rights of a permanent employee. Service is not broken when one employment contract immediately follows another.

Additionally in some instances, when there is a brief gap between the contracts through temporary cessation of work, the continuity of employment may remain unbroken. If a pattern of working develops whereby an employee works, for example, during times of peak workload only and there is no contract for relatively short periods in between, continuous service may nevertheless accrue.

Where there is any doubt about an employee's length of continuous service, advice should be sought from the Departmental Human Resources Advisor/BSO.

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Notice Provisions

It is advisable when using short term contracts to include notice provisions so that the contract can, if necessary, be terminated earlier than expected.

Cover for Maternity Leave

There are special provisions for temporary appointments to cover absence due to maternity leave. The employee must be informed in writing that the employment will be terminated on the return to work of the absent employee, or when the cover is no longer required, e.g. in the event of the maternity leave employee not returning.

Lambeth Maternity Scheme

The Lambeth Maternity Payments scheme will only be available to short term employees whose contracts permit them to return to work for at least three months following their return from maternity leave.

Casual Relief Pools

The establishment of casual relief pools can be useful as an alternative to using agency workers where cover is required at short notice and may only be required for a few hours. Employees are usually engaged under an “umbrella contract” and each offer and acceptance constitutes a period of employment. A series of offers of work can constitute a period of continuous employment with the employee having statutory employment rights. Acceptance of an offer of work will depend on the individual’s availability and there is no obligation to accept the offer. Equally there would be no obligation on the part of the Council to offer work.