



Workforce

Fixed-term Contract Policy

Aim

The Fixed-term Contract Policy aims to:

- Provide the framework for managing fixed-term contracts and making sure they are only used where necessary and appropriate.
- Provide employees on fixed-term contracts with equal access to development opportunities and the same or equivalent terms and conditions as employees on permanent contracts.

Scope

This policy applies to all fixed-term contract employees, including doctors and dentists in training and locum medical staff directly employed by NHSScotland organisations. It does not apply to agency workers and apprentices.

Employees who are on secondment to fixed-term posts are covered by the [NHSScotland Secondment Policy](#). The Secondment Policy does not apply if a secondment has not been supported.

This policy complies with current legislation and meets the aims of the [Public Sector Equality Duty](#) of the [Equality Act 2010](#).

Definitions

A **fixed-term contract** is a contract of employment where one of the following applies:

- It is for a specific period that is fixed in advance.
- It terminates on the completion of a particular task.
- It terminates upon the occurrence or non-occurrence of any other specified event.

Redeployment is the process of securing suitable alternative employment for an employee who is displaced or unable to continue in their current role.

Secondment is where an employee moves temporarily from their substantive post to another post. The employee is expected to return to their substantive post at the end of the agreed term of the secondment.

A **substantive post** is an employee's main contractual post, which is normally permanent.

Suitable alternative employment describes the factors used to determine if a post is appropriate in a redeployment situation. The factors include the following:

- job role
- pay and benefits
- job location and hours of work
- special class or mental health officer pension status
- employee's skills and experience
- employee's circumstances

Roles and responsibilities

There is a range of standard expectations which underpin all policies. [Read more about standard roles and responsibilities](#). In addition, the following specific responsibilities apply to this policy.

Manager

The manager should:

- Review the status of the contract mid-term and regularly thereafter.
- Keep the employee informed of the status of the fixed-term contract.
- Support the employee through the period of employment and signpost them to sources for permanent employment.
- Support the employee to access development opportunities.
- Engage with the appropriate redeployment contact if the contract is not to be renewed.
- Make sure the employee receives the defined period on redeployment prior to the contract end date.
- Be aware of the potential cost implications of redundancy or extension of contract.
- Update appropriate systems.

Employee

The employee should:

- Actively engage with the redeployment process where the contract is not to be renewed.

- Actively search for alternative employment opportunities where the contract is not to be renewed.

Procedure

NHSScotland should use permanent employment contracts wherever possible and fixed-term contracts only where necessary and appropriate. If permanent employment is highly likely at the end of the fixed-term period, the organisation should appoint those staff permanently.

Employees on fixed-term contracts are entitled to the same terms and conditions of employment as permanent staff. The employer should not treat them less favourably than permanent employees unless objectively justifiable.

Appropriate use of fixed-term contracts

Employers should only use fixed-term contracts as time-limited, short-term options. Employees should not usually be in non-permanent employment for more than 2 years or be subject to more than 2 renewals within one year.

Fixed-term contracts may be appropriate in these situations:

- Cover for long-term sickness absence, maternity leave, extended study leave, secondments, or career breaks.
- To protect posts for permanent staff where services are being restructured or redesigned.
- Posts without permanent funding.
- Project or research posts.

The length and reason for the fixed-term contract should be clear in any recruitment process.

When using fixed-term contracts, consideration should be given to the exit strategy for the end of the fixed period.

Reviewing fixed-term contracts

The employer should review the contract's status mid-term and regularly thereafter. The manager and employee should also review the contract status, and the manager should confirm the outcome of the discussion in writing.

There are 3 options which may arise during such discussions:

- no change to the length of the contract, and it will end
- extend the length of the contract
- make the post permanent

Ending the fixed-term contract

When a fixed-term contract ends, it will take one of the following 2 forms, depending on the reason for the contract.

Non-redundancy

The following are examples of non-redundancy situations where the post continues after the end of a fixed-term contract:

- The substantive postholder returns, such as after sick leave or maternity.
- The fixed-term contract was to fulfil the role pending the appointment of a permanent postholder, and a permanent postholder is to commence in the role.
- A training post comes to an end.

Redundancy

The post no longer exists. For example, it is redundant due to the end of the project or funding.

Displacement

Employees displaced from a role before its agreed expiry date should be provided with suitable alternative employment. It should be for the remainder of the fixed-term period on the terms and conditions they were employed. This applies irrespective of the reason for the fixed-term contract.

When the contract is to end, the manager will meet with the employee. The meeting should occur with sufficient time to allow access to redeployment. [For more information, see the Redeployment Policy.](#)

The access period for employees displaced due to non-renewal of a fixed-term contract can be for up to 3 months but certainly no less than their contractual notice period.

The manager should confirm the discussion details in writing within 7 days of the meeting. As the fixed-term contract ends with a dismissal, the correspondence should confirm the employee's right of appeal in line with the [NHSScotland Formal Hearing Guide](#).

For more information on ending a fixed-term contract, please see the following guides:

- [Guide for managers](#)
- [Guide for employees](#)

The manager should grant the employee reasonable time off to attend interviews during the redeployment period.

Employees whose fixed-term contract ends in a redundancy situation may be eligible for a redundancy payment in line with the [NHS Terms and Conditions of Service](#). This would include any reckonable service from previous NHS employment.

If the post has ended in a redundancy situation, and the employee is redeployed into a suitable alternative post, the employee may be entitled to protection.

Protection of earnings and redundancy payment will not apply if the employee accepts a post outside the redeployment process, which is not considered a suitable alternative. Similarly, employees who do not actively participate in the redeployment process or unreasonably reject suitable alternative employment may lose their entitlement to a redundancy payment.

Renewing fixed-term contracts

Employees with a succession of fixed-term contracts totalling over 4 years of continuous service with the same board have a legal right to permanent contractual status. However, there may be occasions where the employer can objectively justify continued fixed-term contracts.

Where the employee has met the criteria for permanent contractual status and the post is also made permanent, the employer should permanently appoint the employee to the role without advertising. If the post remains fixed-term, the employee's contract should be made permanent, and they should be redeployed when the fixed-term post ends.

In the case of consultant appointments, existing recruitment processes should be followed.

NHSScotland is also committed to permanently appointing employees who have more than 2 years of continuous service with the same board and meet each of the following criteria:

- The employee must have held continuous fixed-term contracts, which were used to protect posts for permanent staff due to any of the following:
 - planned organisational change
 - service reconfiguration
 - redeployment
- The organisation must have recurring funds for the post beyond 2 years to retain the employee. Alternatively, it must carry out a positive risk assessment to establish the impact should recurring funding not exist.

If these conditions are met, but it is known the employee's contract of employment within 3 months of reaching 2 years of service, it remain fixed-term.

Unless there are clear, objective, specified reasons, the employer should not renew the initial contract:

- more than 2 times within 12 months
- for less than 3 months

Where the employer needs to renew the fixed-term contract, the manager should extend it with the employee's agreement. The manager will then arrange for an employee to be issued a variation to the contract of employment using existing organisational procedures.

Managers should avoid fixed-term contract employees working past the specified expiry date. If the employer does not renew the contract, there is a risk that it may be considered open-ended.

Making the post permanent

If the manager decides to make the fixed-term post permanent, they should advertise it through the normal recruitment process. The employee currently undertaking the role on a fixed-term contract basis can apply. However, as the employee's fixed-term contract is coming to

an end, if they are on the redeployment register, they should be considered for the permanent post via redeployment.

Permanent employees in fixed-term contracts

Employees whose fixed-term contract ends in a redundancy situation may be eligible for a redundancy payment in line with [NHS Terms and Conditions of Service](#). When individuals with continuous service within the NHS apply for a fixed-term contract, boards can refuse any such appointment because their previous service can count towards redundancy entitlement.

A permanent employee may be appointed to and accept a fixed-term contract. This may be where the employer rejects a secondment request, but the employee still accepts the post. The employer must advise the employee in writing of the following:

- their existing permanent contract has ended
- their new contract is fixed-term

[The Loss of permanent status letter template will be used.](#)

The organisation should manage the employee's contract in the same way as that of other fixed-term employees. A board may refuse an appointment because the employee's previous service counts towards redundancy entitlements.

Pregnant employees in fixed-term contracts

The employer must extend a fixed-term contract to allow pregnant employees to access their maternity entitlements. The employee will be entitled to access redeployment and may be entitled to redundancy provisions.

For more information, please see the following guides:

- [Guide for managers](#)
- [Guide for employees](#)

Read more about support for pregnant employees on fixed-term contracts in the [Maternity Policy](#).

Related policies

The following policies are related to the Fixed-term Contract Policy:

- [Secondment Policy](#)
- [Redeployment Policy](#)
- [Maternity Policy](#)