

**CONSULTATION GUIDANCE FOR MANAGERS  
STAFF ON FIXED-TERM CONTRACTS OR OPEN-ENDED CONTRACTS  
UNDERPINNED BY EXTERNAL PROJECT/ RESEARCH FUNDS**

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## 1. Introduction

As a College manager you are expected to continually review staffing requirements in light of current or anticipated changes in service needs as a means of ensuring that the staffing structures and skill sets are appropriate and as a basis for maintaining the highest standards of excellence.

The purpose of this document is to give you practical guidance on the employment of staff on fixed-term and open-ended contracts underpinned by external project/research funds. In circumstances where these contracts are not to be renewed or ended, this document also provides an overview of the management of the consultation period to ensure that a fair and consistent process is followed and that the College's legal obligations are fully met.

It is College policy to ensure, as far as possible, security of employment for its staff. Where a member of staff has been continuously employed on a fixed-term contract for a period of four years, we will normally issue them with an open-ended contract, in line with the process outlined in **Part One** of this Consultation Guidance, unless there are objective justifiable reasons for issuing of a short extension. In such circumstances, the extension would not normally be for longer than six months.

Where funding is due to expire and it is proposed that a contract may not be renewed or where an open-ended contract is underpinned by external project/research funds which are due to end and, as a result of this the member of staff may be dismissed on grounds of redundancy, **Part Two** of this Consultation Guidance contains the process that should be followed.

Please note that the non-renewal of temporary contracts covering maternity leave or secondments will still constitute a dismissal, however these are not regarded in law as a redundancy. If you are required to consult on ending a temporary contract the HR Staff Hub for further advice.

You must seek advice from the HR Staff Hub when the need arises to use this document. We will work in partnership with you throughout the process.

The College's [Values](#) are at the very centre of our work and guide our behaviour as a community, across all levels of the College. This policy aims to protect and promote our Values of Respect, Collaboration, Excellence, Integrity and Innovation.

This guidance complies with the Fixed Term (Prevention of Less Favourable Treatment) Regulations 2002, and the ACAS Code of Practice 2013.

## **2. Part One – Fixed-Term Staff Approaching Four-Year Anniversary**

As members of staff on fixed term contracts approach four years' continuous service, we will contact you to advise that we will issue open ended contracts to these staff once they complete their four years' service subject to funding continuing at least 6 months past the member of staff's four-year anniversary.

In instances where no further funds are available to support the employment, you will need to advise us of this. In these instances, part two of this policy - Expiry of Fixed-Term Contracts and Open-Ended Contracts Supported by External Funds will then be followed.

## **3. Part Two – Expiry of Fixed-Term Contracts and Open-Ended Contracts Supported by External Funds**

When it is identified that a fixed term contract may not be renewed or an open ended contract underpinned by external funding is due to expire, it is your responsibility or, where specifically delegated, the responsibility of another appropriate Senior Manager, with appropriate support from the HR Staff Hub team, to consult with the member of staff on the non-renewal or termination of their contract and dismissal. **This is a legal requirement** and the consultation process for non-academic staff is broken down in the flowcharts overleaf. For academic staff consultation should be in line with the appropriate Ordinance 13 procedure.

The non-renewal of contract or expiry of funding should not come as a surprise. It is, therefore, beneficial to both sides that you ensure that members of staff on fixed-term and open-ended contracts underpinned by external funds are kept fully aware of the state of funding. Where the contract is renewed for short periods at a time due to funding uncertainty, consultation may need to be on-going and this will be reflected in the letter sent to the member of staff.

Members of staff subject to the formal stages of this process have a right to seek advice and be represented by a Trade Union official or work colleague. They may also wish to contact the College's independent Employee Assistance Provider [Confidential Care](#) for confidential support and advice.

**Please see the process flowcharts overleaf.**

### 3.1 Fixed Term contract Flowchart

#### Prior to commencement of consultation period - 1

- **You** regularly communicate with your staff about the status of their fixed-term contract
- **We** (HR Information) update the 'Contract Expiry' dashboard on the Power BI Dashboard on, or around, the 1st of each month.
- **You** (line manager) review the data and attempt to identify alternative funding

#### Prior to commencement of consultation period - 2

- If alternative funding is available, you inform the Staff Hub by completing a 'Contract change' form
- If there is no alternative funding, you complete a 'Request to start consultation' form which will notify the Staff Hub that consultation should commence.

#### At commencement of consultation period

- **We** (HR Staff Hub) forward 'Start of consultation' letter to the individual (copied to you and Joint Trade Unions)
- During this period and up until the contract ends or is extended, we review redeployment opportunities and, in liaison with the relevant department, offer suitable alternative and/or alternative employment opportunities wherever possible
- **We** (HR Staff Hub) will respond to the member of staff directly on redundancy payment queries

#### From issue of start of consultation letter, the member of staff may in writing:

- Request advice and support from a trade union representative or work colleague
- Forward questions to us within **5 working days**, to which we will respond normally within **10 working days**.
- Request a consultation meeting within **5 working days**, to which we will issue a consultation meeting request letter and the meeting will normally take place within **10 working days** of its request
- Request support to find roles within or external to College. **We** will contact and support the member of staff with the College's redeployment process throughout the consultation period.

#### After a consultation meeting has taken place

- **We** will issue a 'following consultation meeting' letter to confirm the discussion

#### After 30 day consultation period ends

- Where the consultation process has been exhausted, in the event that no future funding has been secured and redeployment has not be possible, and a decision has been made that the contract of employment will expire, **we** will issue an 'End of Consultation - Expiry of Fixed-term Contract' letter.

#### Appeal

- Members of staff have the right of appeal, details of the appeal process will be included in the 'End of Consultation - Expiry of Fixed-term Contract' letter.

### 3.2 Open ended contract underpinned by external project/research funds

#### Prior to commencement of consultation period - 1

- **You** regularly communicate with your staff about the status of their funding expiry
- **We** (HR Information) update the '*Fixed Funding End Dates Expiry*' dashboard on the Power BI Dashboard on, or around, the 1st of each month.
- **You** (line manager) review the data and attempt to identify alternative funding

#### Prior to commencement of consultation period - 2

- If alternative funding is available, you inform the Staff Hub by completing a 'Contract change' form
- If there is no alternative funding, you complete a 'Request to start consultation' form which will notify the Staff Hub that consultation should commence.

#### At commencement of consultation period

- **We** (HR Staff Hub) forward 'Start of consultation' letter to the individual (copied to you and Joint Trade Unions)
- During this period and up until the contract ends or is extended, we review redeployment opportunities and, in liaison with the relevant department, offer suitable alternative and/or alternative employment opportunities wherever possible
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- Request support to find roles within or external to College. **We** will contact and support the member of staff with the College's redeployment process throughout the consultation period.

#### After a consultation meeting has taken place

- **We** will issue a 'following consultation meeting' letter to confirm the discussion

#### After 30 day consultation period ends

- Where the consultation process has been exhausted, in the event that no future funding has been secured and redeployment has not be possible, and a decision has been made that the contract of employment will need to be terminated, **we** will issue an 'End of Consultation - Notice of Termination of Employment' letter within a period of not less than the individual's notice period.

#### Appeal

- Members of staff have the right of appeal, details of the appeal process will be included in the 'End of Consultation - Notice of Termination of Employment' letter.

## How to conduct a consultation meeting

Should the member of staff or you, as line manager, request a consultation meeting, the procedure set out below should be followed.

You will lead the meeting. If required, an HR representative can be available prior to the meeting to explain the format in more detail. The member of staff has a legal right to be accompanied by a Trade Union representative or work colleague. Under exceptional circumstances you and your Human Resources representative may consider requests for accompaniment by a relative or friend, this individual must not be a legal representative. The member of staff will be given reasonable notice of the meeting, normally 5 working days.

### Format of Consultation Meeting

- 1) You will introduce all those present. If the member of staff attends alone then you must ask them if they are happy to be there on their own. If not then the meeting should be reconvened to a time when a representative can attend with them, normally within 5 working days.
- 2) Where HR is present at the meeting, we will provide advice on the process and take brief notes of the meeting. If HR is not present at the meeting, you should take brief notes.
- 3) You should explain that the purpose of the meeting is to discuss the non-renewal of contract/non procurement of additional funds for open ended posts and potential dismissal due to redundancy.
- 4) You should discuss the reasons for the potential dismissal due to redundancy. Full and frank discussions should take place. The member of staff should have an opportunity to respond to the situation and put forward ideas/concerns. If the member of staff has valid and reasonable ideas on how to extend the post then these should be explored fully.
- 5) Objective reasons need to be given on why the contract may not be renewed, or in the case of an open-ended contract underpinned by external project/research funds, why the procurement of further external funds is not possible.
- 6) The non-renewal of a fixed term contract/termination of an open-ended contract underpinned by external project/research funds can only be justified under the following circumstances:
  - Where there is no further need for the type of work undertaken by the employee i.e. the research activity or project comes to an end **and**
  - Where there is no 'suitable alternative' or 'alternative' employment available within the College.
- 7) Consultation will need to include ways of avoiding redundancy and dismissal. Questions should be asked to establish whether training or re-training is a reasonable possibility. The member of staff's career plans should be examined and methods to support this considered.
- 8) If present, we will then discuss the support available, and the redeployment process and continue to advise throughout the consultation period.
- 9) The use of office facilities and the right to reasonable time off to seek alternative employment will also be discussed in consultation with you.

- 10) Members of staff who are made redundant following 2 years' or more continuous service at the end of their fixed-term contract or open-ended contract underpinned by external project/research funds will be eligible for a redundancy payment. Fixed-term contract staff are not entitled to receive payment for their notice as this is contained automatically within their contract and expires when the contract ends,
- 11) At the end of the first consultation meeting you should organise to have further meetings over the consultation period should this be required.

A 'Following a Consultation Meeting' letter **should** be sent by us to the member of staff detailing the outcome of the meeting.

### **Support to members of staff at risk of redundancy**

Following the initial consultation, we can provide assistance in the following areas:

- Financial areas - such as information on redundancy pay. In most cases, queries on pension issues will be referred directly to the Pensions team for specialist advice.
- Skills Analysis - assistance in identifying transferable or marketable skills; this may be referred to People and Organisational Development for specialist advice.
- Conducting job searches and providing information on useful resources/contacts – we can provide staff with an Imperial Job Search Information Pack. Where consultation has commenced, we will use either a CV or application form to undertake job searches on a weekly basis and potential job matches (“suitable alternative vacancies”) will be investigated and forwarded to the member of staff.
- Assistance with CV preparation/completion of application forms and improving interview techniques if required.

Specialist support can also be sought from [People and Organisational Development](#); and from the [Postdoc and Fellows Development Centre](#).

### **How the redeployment process works**

Where a member of staff is at risk of redundancy the College has a legal obligation to review redeployment opportunities and offer 'suitable alternative' and/or 'alternative' employment within the College wherever possible.

If a member of staff is at risk of redundancy, they will be given priority consideration for any posts identified as 'suitable alternatives' in line with their skills, experience and capabilities.

To ensure access to all vacancies, both those which are currently being advertised on the College's employment website and/or in external publications and those which are no longer being advertised but which have not yet been filled, members of staff will be given the opportunity to set-up a job alert, in order to receive vacancies matching their preferences. These vacancies will include those appearing on the College's internal only employment website.

Applications submitted by a member of staff at risk of redundancy for vacancies which have not yet been filled should be considered by the recruitment panel prior to other candidates and where the recruitment panel considers that a member of staff meets the minimum criteria for the post, the member of staff will be guaranteed an interview. Where the member of staff demonstrates that they fully meet the requirements of the post at the interview, it is expected in line with legal requirement that they shall normally be appointed to the post.