



**Workforce**

## **Fixed-term Contract Policy: guide for employees**

This guide will help you to understand how the Fixed-term Contract Policy is applied.

The following guide forms part of the standard for workforce policies. These policies apply to all eligible staff within NHS Scotland, regardless of the board you are employed by. The guide covers:

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# What is the purpose of the Fixed-term Contract Policy?

The purpose of the policy is to make sure fixed-term contracts are appropriately managed. It also makes sure that if you are on a fixed-term contract, you are treated no less favourably than those on permanent contracts.

## Who is covered by this policy?

This policy applies to all fixed-term contract employees, including doctors and dentists in training and locum medical staff directly employed by NHS Scotland organisations. Regarding entitlements, the policy does not apply to bank staff, agency workers, or apprentices.

Any employees seconded into a fixed-term post remain under the Secondment Policy and should be managed in line with that policy.

[Learn more about the Secondment Policy.](#)

## Employee responsibilities

As the employee, you have the following responsibilities:

- You should actively engage with the redeployment process when your contract is not to be renewed.
- You should actively search for alternative employment opportunities when your contract is not to be renewed.

## Reviewing your fixed-term contract

Your manager must meet with you at the mid-point of your contract and regularly after that. They will make sure you are kept informed about the future of your employment. Your manager should also confirm the content of any discussion in writing so there is a record of what has been discussed.

There are 3 options which may arise during such discussions:

- no change to the length of your contract, and it will end at the date of the original contract
- your contract will be extended
- the post will be made permanent

## **Ending your fixed-term contract**

If your contract is to end, your manager should meet with you with sufficient time to allow you to access redeployment. If your contract is not renewed, the redeployment access period can be up to 3 months. However, it should be no less than your contractual notice period. In both scenarios, the period on redeployment should end on the final day of your contract.

At the meeting, your manager should formally confirm that your contract will end in line with the employment contract. Following the meeting, your manager should confirm the discussion details in writing within 7 days. If your fixed-term contract ends with a dismissal, your manager should confirm your right of appeal.

## **Renewing your fixed-term contract**

Your initial contract should not be renewed more than twice within 12 months or for less than 3 months unless you are provided with clear, objective, specified reasons. If there is a need to renew your fixed-term contract, your manager should discuss this with you to obtain your agreement. Your manager should then arrange a variation to the contract of employment to be issued to you.

If you have successive fixed-term, continuous contracts totalling more than 4 years with the same board, you have a legal right to permanent contractual status. If the post becomes permanent and you have over 4 years of successive fixed-term contracts, you should be permanently appointed without needing a formal recruitment process. If the post ends, you will be given the opportunity for alternative employment through redeployment.

In the case of consultant appointments, existing recruitment processes should be followed if you or the post becomes permanent.

In addition to the legal entitlement to permanent status after 4 years, NHSScotland has committed to appoint you permanently if you have more than 2 years of continuous service in some situations. This is when you have held continuous fixed-term contracts for more than 2 years specifically to protect posts for permanent staff due to planned organisational change, service reconfiguration, or redeployment. Recurring funds for the post beyond the 2 years must also be available.

You must fully meet both criteria to qualify for permanent status after 2 years. For further information, contact your HR department.

## **Making the post permanent**

If the post is made permanent, you won't be automatically appointed to the post unless you are eligible for permanent contractual status. If you are on the redeployment register as your contract is due to end, you may be considered for the post under the redeployment process. If you are not on the redeployment register, you can apply for the post through the usual recruitment process.

## **Redundancy and non-redundancy fixed-term contracts**

When your fixed-term contract ends, it is important to know whether it is a redundancy or non-redundancy situation for redeployment purposes.

Where the post no longer exists, this is a redundancy situation. This is most likely to occur when short-term funding has been provided, or a specific project has ended.

Where the post continues, this is not a redundancy situation. This is most likely to occur when your contract has been to cover maternity, sick leave, a vacancy or part of a recurring training programme.

Redeployment will be made available prior to your contract end date. If redeployment is unsuccessful in this period, your contract will be terminated.

This difference is important as it will determine the priority given to you on redeployment and will determine if you are entitled to a redundancy payment or protection. Under employment law, employees on fixed-term contracts must be treated no less favourably than permanent employees in the same position. You should, therefore, be considered the same as staff under organisational change whose post no longer exists.

If the post no longer exists and you have more than 104 weeks of service, you will be entitled to a redundancy payment. Any prior continuous NHS service will count towards the total entitlement.

If your service is with more than one NHS employer, there must not have been a break of more than a week, measured Sunday to Saturday, between employments. The policy allows your employer not to appoint a

candidate to a fixed-term contract where they have previous service for this reason.

## **Permanent employees in fixed-term contracts**

If you are a permanent employee and apply for a fixed-term contract, this would normally be supported under the [Secondment Policy](#).

If your request for secondment is not supported, you should be aware that if you apply and are accepted for the post, you will give up your permanent contract. You will need to resign, and your contract will be terminated with a new contract offered. Your employment will end at the expiry of the fixed-term contract unless you are successful through redeployment.

If you are applying for a fixed-term post, you should know that the policy allows the recruiting manager not to appoint a permanent employee. This is because they may have to fund redundancy entitlements related to the employee's previous service.

## **Pregnant employees in fixed-term contracts**

If you become pregnant whilst on a fixed-term contract, your contract must be extended to allow you the full entitlement of maternity leave and pay where eligible. Redeployment access should commence before the end of your maternity period to ensure opportunities are available to coincide with the end of your maternity leave.

If no suitable posts are available, your contract will end when the maternity leave ends. The clarification of the redundancy or non-redundancy situation is also relevant in such cases. If the post ended in a redundancy situation, qualifying service for a redundancy payment includes your period on maternity leave.