

# Reviewing Fixed-term Contracts Employee Guide

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## Reviewing fixed-term contracts

### Scope

This guidance note is designed for staff who are employed on fixed-term contracts. The College will review your contract in two circumstances, namely if:

- ❖ you claim that you have the legal right to a permanent contract; or
- ❖ your contract is due to end and you have at least one year's continuous service with QMUL; or

**Section one** of this document explains the legal right to claim a permanent contract. This issue is also covered in Section 1 of the Code of Practice on Reviewing Fixed-term Contracts.

**Section two** of this document explains the processes that the College will follow as the end-date in a fixed-term contract approaches. This issue is also covered in Section 2 of the Code of Practice on Reviewing Fixed-term Contracts.

## Reviewing fixed-term contracts

### Section I: Claiming a fixed-term contract

#### The legal context

The legal right to a permanent contract arises only if:

- ❖ you have been employed by QMUL on successive fixed-term contracts; and
- ❖ you have more than 4 years' continuous service with the College; and
- ❖ a decision to continue to employ you on a fixed-term contract cannot be objectively justified. (See page 4).

#### Successive fixed-term contracts

To claim that you are permanent, you need to have been employed by the College on more than one contract. If you are employed on a single contract for, say, a 5 year period, you would not qualify for a permanent contract unless it was subsequently renewed. Even then you would qualify for a permanent contract only if the offer of a further fixed-term contract could not be objectively justified.

#### Continuous service

You need 4 years' continuous service before you can qualify for a permanent contract. This means that if there are any significant breaks in your service, the "clock" is set back to zero.

In law:

- ❖ continuous service is assessed on a week by week basis; and
- ❖ the working week runs from Sunday to Saturday.

Thus, if you do not have a contract of employment to cover at least one day in each of two consecutive weeks, your continuous service may be broken.

However, there are some exceptions to this rule. For example, if the break between contracts coincides with a period of holiday between semesters, it will not normally amount to a break in service.

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### Section 1: Claiming a fixed-term contract

#### Objective justification for a fixed-term contract

The College has identified the circumstances in which a fixed-term contract is appropriate. They are set out in full in Appendix 2 of the Code of Practice on Reviewing Fixed-term Contracts but are summarised below:

A fixed-term contract is appropriate if:

- a] the department requires temporary input from specialist practitioners
- [b] the post is appropriate to cover long-term staff absence
- [c] the post will provide interim cover while arrangements are being made to appoint on a “permanent” basis
- [d] the contract includes a training, developmental or educational component, such as a secondment, or studentship
- [e] the student or other business demand can be shown to be particularly uncertain
- [f] the post is to cover a peak in demand
- [g] there is no reasonable prospect of funding being renewed or becoming available.
- [h] the post is one in which the College offers work to a succession of its current students

If the fixed-term in your contract can be objectively justified for one (or more) of these reasons, you will have no legal right to a permanent contract.

#### How to apply

Write to your head of department or director of institute. In your letter, it is helpful to:

- ❖ set out the number of successive fixed-term contracts on which you have been employed, with dates;
- ❖ explain why you consider that you have 4 years or more continuous service;
- ❖ explain why you believe that the fixed-term in the contract could not be justified the last time it was renewed.

#### The next steps

Your head of department or director of institute will normally consider your claim within 21 days, and write to you with their decision. If they cannot give the decision within 21 days they will explain why not and give you a date by which they will respond.

There is no right of appeal under this process.

The procedure is set out in full in the HR Code of Practice on Reviewing Fixed-term Contracts.

## Reviewing fixed-term contracts

### Section 2: End of contract review

Section 2 of the HR Code of Practice on Reviewing Fixed-term Contracts sets out the process that College managers will follow when reviewing fixed-term contracts as the end date in the contract approaches.

You can get the full Code of Practice from your manager or trade union, or from the HR web-site. This note gives a brief summary of the procedure and some notes on how it is applied.

Your manager will give you a copy the Code or ensure that you have access to one, either when they meet with you informally, or when you are notified of a formal hearing to review your contract.

#### Aim of the procedure

The Code of Practice is agreed with the College's trade unions. It is designed to enable managers to:

- ❖ review fixed term contracts and implement any dismissals or redundancies lawfully and sensitively
- ❖ to achieve a proper balance between flexible and efficient working and fair and secure employment.

#### Might I lose my job?

Yes. The College will seek to secure funding for a new contract, or assist you to find alternative work with the College. However, it cannot guarantee that it will be successful in doing so in every case.

#### Outline of the procedure

The process is as follows.

Your manager will review the prospects for renewing or extending your contract, and whether you can be offered a permanent contract.

They will then outline their proposal and the reason for it. If no permanent post can be offered, they will invite you to a meeting to discuss the matter.

If you have 4 years' service on successive contracts, your manager will normally also consider whether you have right to a permanent contract at the meeting. (See section one of this guide for more information)

#### What to expect at an assessment meeting

Expect the manager to:

- ❖ notify you in writing of:
  - the time and place of the hearing; and
  - what they are proposing to do;
- ❖ conduct the meeting as a fact finding process;
- ❖ outline the results of the review and their decision;
- ❖ take into account your comments and consider their decision;
- ❖ give the decision in writing and set out any right of appeal.

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### Section 2: End of contract review

You have the right to:

- ❖ be accompanied by another person;
- ❖ hear and question any facts or evidence presented;
- ❖ explain your side of the matter.

#### Appealing the decision

You have the right to:

- ❖ lodge an appeal if, either:
  - you are not offered any further contract; or
  - you are offered a fixed-term contract but believe you have the legal right to a permanent one.
- ❖ bring another person to represent you at any such appeal

You must lodge any appeal with the Director of HR within 10 working days of the date you receive the written decision and the reasons for it.

The College has a form for people who wish to appeal. It sets out the grounds of appeal and gives more information about the appeal process. If the form is not included with the letter giving you the decision, it is available from your manager, the HR web-site or from the HR department.

#### If you lose your job

You have the right to:

- ❖ redundancy pay provided that:
  - the reason for your dismissal is redundancy, and
  - you have more than two years' continuous service.
- ❖ reasonable time off with pay to arrange training or search for another job outside the College
- ❖ an offer of suitable alternative work with the College, if there is any.

#### Finding suitable alternative work

Your managers will seek to redeploy you into any vacant job in the department for which they consider you to be suitable.

In addition, you may apply for any permanent job that the College advertises. You can find these on the HR web-site at the following address:  
<http://webapps.qmul.ac.uk/hr/vacancies/>

#### Notice period

By definition, all fixed-term contracts include notice, from the outset, of the date the employment is due to end. The College will remind you in good time of the end-date in your contract of employment.