

Regulations for Fixed Term Employees 2002

The 10th July 2006 deadline for implementation of the above regulations governing the employment of fixed term employees, including contract researchers, draws ever closer. As a reminder, under the 'Regulations for Fixed Term Employees 2002' which came into effect on 10th October 2002 there is provision for employees on fixed term contracts to be automatically transferred to an indefinite contract. These regulations also state that you have the right to be treated equally to a permanent employee.

Transfer to an indefinite contract applies to employees with four years or more of continuous service on two or more contracts, unless there is a 'justifiable and objective' reason why not. In most cases, it looks as if a fixed term research grant would be a 'justifiable and objective' reason for continued use of a fixed term contract, thus most CRS probably will not be moved to an indefinite contract, unless there is already a precedent for renewal of your short term funding stream (JNCHES Guidance, see www.ucea.ac.uk/ft&cguide_aug2002.html). Several Universities have already implemented local policies which interpret the new regulations in the spirit of this legislation and WarwickAUT, in conjunction with the other campus unions, continues to negotiate over specific points of the local policy.

The End of Your Contract: Consultation, Redundancy (including the Waiver Clause) and Pensions

However the new legislation is implemented, there is no doubt that many fixed term contract staff will still face redundancy at the end of their contracts. The following points still apply:

Three months from the end of your contract, you should have a meeting with your Head of Department or nominated representative to discuss all your potential options, and follow-up meeting nearer the end. This is part of the University's legal obligation to consult with you. You should also receive a letter from Personnel informing you of suitable alternative employment in the university, which you probably have to look for yourself via the Vacancies website. Contract research staff might also be able to apply for contingency funding from their external funding body to extend the contract. More guidelines on the consultation process are available on the Personnel website:

www2.warwick.ac.uk/services/personnel/allstaff/policies/fixed_term_contracts/.

Fixed term contract employees with two years or more continuous service are entitled to a statutory redundancy payment (as of course are permanent employees; you should be treated equally by the employer in accordance with the 2002 regulations). This is calculated as one week's pay for each year of service to a maximum weekly rate of £280 (which equates to a gross salary of £14,560). This applies to employees between 20 and 41 years of age; years of service accumulated over age 41 attract 1.5 weeks' pay per year of service, up to age 64. A redundancy calculator is available on the DTI website:

<http://www.dti.gov.uk/er/redundancy/ready.htm>

Legally, if you signed your contract before 1st October 2002, the redundancy waiver was still valid. The use of waiver clauses after this date is unlawful, but unfortunately these old ones still apply. In fact, local Warwick University guidelines state that redundancy waivers are not valid after 10th July 2002, so the date you began your current contract is important.

If you are offered an extension, which you reject for whatever reason, then you also lose your right to redundancy as the employer has found you 'suitable alternative employment'. However, if you then complete the extension period(s), you would qualify. The extension period counts as a new contract, and thus you would then be entitled to redundancy, even if your original contract predated 1st October 2002. The redundancy payment should cover your full term on continuous employment, including that prior to 1st October 2002.

You can keep paying into your USS pension if you go to a job with another employer who also participates in USS, which most pre-1992 universities do. Note that if the gap in employment between USS-participating institutions is more than 1 month, your service will not be counted as continuous. There are other options for deferral or transferring, and you can get a refund if you have less than 2 years' membership (with some costs deducted). The fact sheet on the USS website is useful, but it would be sensible to contact USS with specific questions (www.usshq.co.uk). The fact sheet is available at www.usshq.co.uk/downloads/pdf/all_sections/communications/factsheets/FS8.pdf