



**Ivington C of E
Primary and
Pre-school**

*Reaching together with the Fruit of the
Spirit (Galatians 5:22-23)*

**Ending Fixed Term
Contracts Policy**

Approval of the Governing Body

This document is a statement of the aims, principles and strategies for:

Ending Fix Terms Contracts Policy

at

Ivington CE (VA) Primary and Pre-school

It was revised during the:

Spring Term 2024

It has been agreed and is supported by the teaching staff and the governing body.

We aim to review this policy during the:

Spring Term 2027

Or sooner if necessary



Linking with our Vision – Reaching together with Love, Joy and Peace (Galatians 5:22-23)

To provide a caring, Christian ethos for the school, which inspires and excites a shared enthusiasm for life and learning.

At Ivington CE Primary and Pre-school, through our strong Christian ethos and focus on nine important Christian values, we are committed to providing a deeply nourishing, spiritual, ambitious, and broad curriculum.

Our motto, 'Reaching together' underpins our belief in equality of opportunity for all, where we actively endeavour to promote understanding and appreciation of our diverse society and give each child a special place in the world where they feel valued, essential to our community and equipped with the necessary skills to make a positive contribution.

We perceive our role to be opening a 'Window on the World', through which our pupils are actively encouraged to develop respect for the beliefs and cultures which enrich their everyday lives and encourage others to do likewise.

We strive to eliminate inequality through our deep Christian ethos of respect and understanding of all groups in society, which ensures that everyone at Ivington will be treated fairly despite his or her creed, colour, disability, or gender.

More details are available in our Inclusion, Racial Equality and Equal Opportunities policies.

The health, safety, and welfare of all the people who work or learn at our school are therefore of fundamental importance. We aim to provide a safe, secure, and pleasant working environment for everyone. The governing body, along with the LA, takes responsibility for protecting the health, safety and welfare of all children and members of staff.

INTRODUCTION

The Fixed Term Employees' (prevention of less favourable treatment) Regulations 2002 (amended 2007) makes it unlawful to treat fixed term and temporary workers less favourably than employees employed on a permanent contract. This includes treatment with regard to employment terms and conditions, pay, pensions, bonuses, holidays, training and development, and information about vacancies. The regulations also place restrictions on the repeated use of fixed term contracts. The purpose of this guidance is to provide information on the use of fixed term contracts in schools in order to comply with the provisions as set out in the statutory guidance.

This guidance does not cover apprentices or students on a 1 year or less work placement, agency or casual workers, individuals working on government training/work experience.

DEFINITION OF A FIXED TERM CONTRACT AND ITS USES

A fixed term contract can be defined as “***a contract of employment which is due to end when a specific date is reached, a specific event does or does not happen or a specific task has been completed***”.

Situations in schools which are suitable for applying a fixed term contract could include the cover of:

- a period of leave where the end date is known;
- a period of secondment;
- a period of educational training;
- a period of time pending the appointment of an employee to fill a permanent post;
- a period of sickness, maternity or parental leave
- a period of time whereby workload has increased
- a period of time whereby a new scheme of work is being introduced
- specific funding has been granted for work to be undertaken
- specific funding has been granted for work with a pupil identified as having additional learning needs

This list is not exhaustive however schools must have a legitimate reason for using a fixed term contract.

It is not appropriate to use fixed term contracts unnecessarily. They should not be used to:

- achieve staff reduction linked to school budgetary constraints or falling rolls by not renewing contracts at a future date;
- create probationary/trial period for a member of staff before confirming their appointment on a permanent basis;
- manage staff capability issues;

KEY POINTS

- Fixed-term contracts can be a useful way to resource projects or provide absence cover.

- Fixed-term employees are protected under legislation and must be treated the same as permanent employees, including the same benefits and terms and conditions.
- When recruiting for a fixed term employee, the successful candidate may come with continuous service where they have been employed by the Local Authority or another employer covered by the modification Order, which needs to be honoured.
- The expiry of a fixed-term contract is a dismissal and fixed-term employees will have unfair dismissal rights after being employed in post for two years.
- Fixed-term employees who have been continuously employed for four years or more on a series of contracts will be automatically treated as permanent employees unless it can be otherwise justified.

LEGAL AND CONTRACTUAL POSITION

It is not permitted to use fixed term contracts extensively. The Regulations mean that if a member of staff on a fixed term contract already has 4 years' continuous service (i.e. no break in service) with the school (or within other local authorities schools), then they will automatically be treated as a permanent employee unless it can be otherwise justified (e.g. where the employee undertakes back to back maternity cover contracts). It is important to note that after 2 years' continuous service, fixed term employees are entitled to full employment rights, including redundancy payments.

Successive fixed term contracts within Local Authority Schools, whether at the same or different schools, would be counted as continuous service for the purposes of counting service towards the four year ruling. However, fixed term contracts within Voluntary Aided, Academies, Foundation or Free Schools are contracts with different employers and should be treated as such.

The interval between contracts that results in continuous service being broken is determined by case law and varies with circumstances. Previous case law has determined:

- Where a new contract is agreed after the previous one expires, continuity of service is not broken where the gap between the contracts is less than one week (week being Sunday to Saturday); and
- Where a new contract is agreed before the existing one expires, continuity of service is maintained if the new contract begins within four weeks of the previous contract expiring.

In addition to the above, a gap between contracts will not break continuity if the employee has been absent from work due to temporary cessation of work (e.g. school holidays) or circumstances such as maternity leave or incapacity to do work where the employee is still regarded as continuing in employment by their employer by arrangement or custom.

There must be no engineered breaks of service which have the effect of avoiding the requirements of the Fixed Term Employee Regulations. There is a statutory duty to appoint on merit and applicants who have previous continuous service with an employer on the Redundancy Modification Order should not be discounted because of this.

The Fixed-term Employees (Prevention of Less Favourable Treatment Regulations 2002), afford fixed term or temporary employees important rights that have an impact on the use of such contracts, which include:

- The right not to be treated less favourably than a comparable employee on a permanent contract in respect of pay, contractual terms and conditions, the opportunity to receive training or be subjected to any other detriment on grounds of status as a fixed-term or temporary employee. However, where it is deemed appropriate, the council may adjust terms and conditions providing they can be objectively justified but be in line with the guidance in the section 'Objective Justification'.
- The right to a redundancy payment where the expiry (i.e. dismissal) of a fixed-term or temporary contract gives rise to a redundancy situation. This does not normally apply if the dismissal is for 'some other substantial reason' e.g. brought in to provide temporary cover, normally for less than 2 years.
- The right not to be selected for redundancy or be unfairly dismissed if the principal reason for the selection was because the employee is on a fixed term contract.
- Limiting the use of successive fixed-term contracts to no more than 4 years, after which a fixed-term or temporary contract should become permanent unless the continued use of a fixed-term contract can be justified on objective grounds.
- The right to be informed and have access to information regarding permanent employment opportunities within the organisation

RECRUITMENT AND APPOINTMENT OF FIXED TERM EMPLOYEES

Recruitment for fixed term appointments must follow the same process and procedures as for all permanent appointments.

Advertising the Vacancy

Once it has been determined that a job will be offered on a fixed-term basis it is essential that this is made clear to the potential candidates.

Information should be provided in the advertisement and the application pack on the duration of the contract or state that the contract is terminable on the happening of a future event or the completion of a specific task.

Selection Process

Those involved in the selection process should also be fully aware of the nature of the fixed term contract and the reasons for it, as candidates may seek further clarification about the terms of the contract.

In the event that the candidate asks about the prospect of the post becoming permanent, candidates should be advised that if the post becomes permanent, in accordance with the Trade Union and School Equality Policies, there will be an open and fair recruitment process.

Offer Letter

When offering the job to a suitable candidate, the nature of the contract should be confirmed in writing as part of the conditional offer of employment. It is good practice to require the employee to confirm in writing acceptance of the offer and this should include recognition that the contract is offered on a fixed term basis.

The information provided to the employee in the written statement should include, as appropriate:

- That the employment is of a fixed term
- Why it is fixed term
- How long it is likely to last
- What event will bring it to an end
- The date on which the contract will expire
- Details of notice requirement in place; and state that in the event of early termination of the fixed term contract, the organisation will not be liable for payment for the remaining period of fixed term

Contracts

All staff are entitled to receive written statement of particulars of employment.

It is a legal requirement that the reason why a contract is temporary or fixed term is put into the statement of particulars. It should be made clear to the employee when the contract comes to an end for the reason specified in the contract that there is no entitlement to further work.

If the contract is subject to external funding, it should be made clear that the governing body has no intention of funding the project once the funding comes to an end.

The terms in both the conditional offer of employment and the statement of particulars of employment will be mainly the same as those employees recruited to similar permanent posts.

It is however necessary to draw attention to any difference and be explicit about under what circumstances and how the employment will be terminated.

Staff employed on a fixed term contract (or temporary contract) in a local authority maintained school are subject to the national pay and conditions provision set out in the School Teachers Pay and Conditions Document (STPCD), the 'Burgundy Book', the NJC Terms and Conditions and any relevant local agreements applicable, in the same way that permanent employees are. Therefore salary will be assessed on the same basis as that of permanent employees according to Herefordshire Council, the STPCD and the individual school pay policy where applicable.

Management of Fixed Term Employees

All staff, including those on a fixed term contract, must complete a local level induction and are subject to satisfactory completion of a probationary period (where relevant), and performance management as with permanent employees.

Fixed term to permanent

If the post that the fixed term employee is covering becomes permanent during their tenure, the employee should normally automatically be offered a permanent contract providing they meet the following criteria:

- a) If the person has been covering the post for two years or more; and
- b) If the person underwent a competitive interview for the post at the outset.

If the current fixed term contract post holder does not meet the above criteria, then the post should be advertised in accordance with the normal recruitment procedures. The manager should meet with the fixed term employee to advise them that the post will

be advertised and if they are subsequently unsuccessful at interview, the 3-stage procedure (detailed in section 7) will be followed.

What if there is a break in service?

A break in service of over a week (7 days from Sunday to Saturday) will normally break the continuity arrangements unless there is a redundancy and a new job is taken up within 4 weeks or where there has been a break which has been determined as a temporary cessation in employment (e.g. for unpaid leave in the school holidays).

THE PROCESS OF TERMINATING FIXED TERM CONTRACTS

The termination of a fixed-term or temporary contract, or non-renewal of a fixed-term or temporary contract beyond its expiry date is regarded in law as a dismissal.

The reason for the dismissal will be due to either:

Redundancy – for example where the requirement for the work to be undertaken has diminished or ceased

SOSR (Some other substantial reason) – for example where the requirement for the work to be undertaken has not reduced and the substantive post holder has returned to work or a permanent employee is recruited (e.g. where an employee has covered a period of maternity leave, long term absence or secondment).

Timings for Schools

Before the end of a fixed term contract the school should review the fixed term contract and after a discussion with HR decide if there is a requirement to:

- enter into formal consultation
- make arrangements to meet with the employee to discuss the non-renewal of the contract
- extend the contract
- make the post permanent

Procedure

The ending of all fixed term contracts (a 'dismissal'), whether it's due to the fixed term being fulfilled or whether it's earlier than the original agreed end date, should be in accordance with the requirements of the Employment Act 2002 (Dispute Resolution) Regulations. This three step process is:

- 1) The Head teacher writes to the employee, inviting them to attend a meeting to discuss the proposed non-renewal of their contract, detailing the reasons why they propose it is not renewed, normally at least six weeks before the contract end date. Employees will be given five working days' notice to attend the meeting. Employees are entitled to be accompanied by a union representative or work colleague if they so wish. (See Appendix 1). If they are unable to attend the first meeting, the employee can suggest an alternative within five working days of the original meeting date.
- 2) The Head teacher meets the employee to discuss the proposed reason for non-renewal, ideally at least one month before the contract end date and to make the final decision on whether to dismiss. The employee/their representatives

may ask questions of the head teacher and make representations against the reasons for non-renewal. Redeployment opportunities, if available, should be discussed at this meeting. The Head teacher then writes to the employee confirming the decision to terminate the contract within five working days of the meeting, setting out the right of appeal process (see Appendix 2).

- 3) Appeals should be heard by a panel of three Governors normally within 10 working days of an appeal being lodged. The employee will be invited to attend the meeting (See Appendix 3) and have the right to be accompanied by an appropriately trained and elected trade union representative, or work colleague, if they wish. At the appeal meeting, the Head teacher will outline their reasons for deciding that the contract should not be renewed and the employee may ask questions of the Head teacher, before the appeal panel do so. The employee and/or their representative will state their case and then the Head teacher may ask questions of the employee, before the appeal panel do so. Where possible, the panel will make a decision at the end of the meeting, and will write to the employee to confirm their decision normally within five working days of the meeting (See Appendix 4).

Payments

Fixed term employees may be eligible for a redundancy payment if they have previous continuous employment with an employer on the Redundancy Modification Order which takes them beyond two years by the final day of their employment and the reason for the dismissal is a reduction in work. This is contractual and means that any redundancy pay due by the school will be based on all previous continuous employment. Depending on the length of service this could be costly.

Extension of fixed term contracts

There may be situations where it becomes necessary to renew the fixed term contract, for example, such as the continuation of absence of the substantive post holder.

Where it is proposed that a contract ceases at the end of a term, Head teachers need to programme meetings so that there is sufficient time for any appeal hearing to take place before the half term of the term. In practical terms this means starting the process as soon as possible.

Notice Periods

Fixed term contracts terminate upon the stated expiry date therefore there is no requirement to confirm the expiry date unless the contract specifically says otherwise.

Early termination of fixed term contracts/ termination at the end of the fixed term
Should a school wish to end a fixed term contract for a **teacher** earlier than the agreed expiry date, the notice periods must be those set out in the Burgundy Book (unless terminated on the grounds of gross misconduct) i.e.

- 1 September to 31 December
- 1 January to 30 April
- 1 May to 31 August

The ending of fixed term contracts for non-teaching staff follows the standard procedure and individuals are subject to the same notice period as permanent

employees as set out in their contracts of employment.

REDUNDANCY

The Schools Redundancy Policy and Procedures (HR005 (SCH)) applies to all temporary and fixed term employees whose employment is being terminated on the grounds of redundancy (i.e. where no further appointment will be made to that post). This will not normally include individuals covering posts due to maternity, sickness absence or specific projects for example, where there is no reasonable expectation of the contract being renewed.

Employees who have completed two years continuous service with the school have a statutory right to a redundancy payment if the reason for the non-renewal is redundancy. Employees on a fixed term contract are entitled to the same level of contractual redundancy payments as permanent staff in these instances.

A redundancy situation for an employee on a fixed term contract is determined as follows:

- The employee was recruited to cover additional workload, and the workload has reduced i.e. work of a particular kind has ceased/diminished.
- The employee was employed specifically for a short-term project, the project has finished i.e. work of a particular kind has ceased/diminished.
- The employee was recruited to a specific activity which was related to external funding, the funding was short-term and no new funding can be found i.e. work of a particular kind has ceased or diminished.

Where a potential redundancy situation exists for a fixed term contract employee, schools have the same duty to consult with staff and trade unions as they would for permanent employees in a redundancy situation. Employees will also be informed of any available vacancies as part of the process.

An employee is not dismissed at all if they are offered a suitable alternative job before the end of their employment within the same organisation and the alternative job starts within four weeks of the end of their current employment. In these cases, there is no entitlement to a redundancy payment. If the current employer is a Local Authority School, this criterion includes getting a job in another Local Authority/Local Authority School or any other organisation covered by the Redundancy Payments Modification Order.

UNFAIR DISMISSAL

An employee continuously employed for a two year qualifying period can claim unfair dismissal. This includes previous service with another school where there has been no break in service. This makes it imperative for Head teachers to ensure that:

- a) They have a justifiable reason for the use of the fixed term contract;
- b) The wording of the contract specifies why the contract is fixed term; and the expected end date
- c) The procedure for ending the fixed term contract is correctly followed;
- d) The reasons for non-renewal are clearly explained to the employee.

An example of an unfair dismissal would be if the contract was not renewed and another employee was appointed to do the job on another fixed term contract. Head teachers are advised to contact HR Services for guidance on the procedure if in any

doubt.

PROCESS FOR RAISING CONCERNS

A fixed term employee who believes that they have been subject to detrimental treatment has the right to request in writing, written reasons for the less favourable treatment. The organisation legally has to respond in writing with 21 days of the request. This statement will be admissible as evidence at an employment tribunal so the reasons must be accurate and sustainable.

In addition, a fixed term employee who feels that they have been subject to less favourable treatment is entitled to bring a claim to an Employment Tribunal within 3 months of the infringement.

INDEPENDENT SCHOOLS AND ACADEMIES

Whilst The Fixed Term Employees' (prevention of less favourable treatment) Regulations 2002 (amended 2007) make it unlawful to treat fixed term and temporary workers less favourably than employees employed on a permanent contract, fixed term employees in independent schools and academies may be subject to different terms and conditions of employment where the Burgundy Book and Green Book as quoted in the guidance. Advice should be sought from HR Services.

Version log

Version	Status	Date	Description of change	Reason for change	Pages affected
1.0		March 2017	New Policy	n/a	n/a
2.0		November 2023	Updated policy and supporting letter pack	Review and refresh	All

APPENDIX 1

LETTER INVITING EMPLOYEE TO A MEETING TO DISCUSS EXPIRY/ENDING OF A FIXED TERM CONTRACT.

USE SCHOOL HEADED PAPER

[INSERT DATE]

Dear **[INSERT NAME]**

Re: Expiry/Ending of a Fixed Term Contract of Employment

You will be aware that your fixed term contract as **[INSERT JOB TITLE]** at **[INSERT NAME OF SCHOOL]** is due to end on **[INSERT DATE]**. This is because your fixed term contract was to **[INSERT REASON(S)]**.

I would therefore like to meet with you to discuss this on **[DATE]** at **[INSERT TIME]** at **[INSERT TIME]** in **[INSERT LOCATION]**.

I would like to advise you that you have the right to be accompanied by a work colleague or an appropriately trained and elected trade union representative at this meeting. Please let me know in advance of the meeting if you will be accompanied. If you are unable to make this meeting, please suggest an alternative date within five working days of the original date.

If you have any queries please do not hesitate to contact **[INSERT NAME]** on **[INSERT TEL NO]**.

Yours sincerely

NAME
HEAD TEACHER

APPENDIX 2

LETTER CONFIRMING OUTCOME OF MEETING TO DISCUSS EXPIRY/ENDING OF FIXED TERM CONTRACT

USE SCHOOL HEADED PAPER

[INSERT DATE]

Dear **[INSERT NAME]**

Re: Expiry/Ending of Fixed Term Contract of Employment

Thank you for meeting with me on **[INSERT DATE]** to discuss your present role as **[INSERT JOB TITLE]** which is on a fixed term contract of employment.

I write to confirm, as discussed, that your contract will cease on **[INSERT DATE]**. The reason for this decision is due to **[INSERT DETAILS]**. Your final payment will be made at the end of MONTH and your P45 will follow shortly after and will be sent out from the Payroll Department at Hoople Ltd.

I should like to take this opportunity to thank you for your service to the **[INSERT SCHOOL]** and to wish you all the very best for the future.

Or

I write to confirm that, as discussed, your contract will be extended until **[INSERT DATE]** for **[REASON]**.

Or

I write to confirm that, as discussed, your contract will be made permanent with effect from **[DATE]** due to **[REASON]**.

[ALSO INSERT DETAILS OF ANYTHING ELSE THAT WAS DISCUSSED IN THE MEETING, EG, ANY SUITABLE ALTERNATIVE EMPLOYMENT].

(Delete as appropriate)

You have the right of appeal against this decision. If you wish to appeal against this decision, please write stating the grounds of your appeal, within 5 working days of receipt of this letter, addressing your letter to the Clerk of Governors.

(Delete as appropriate)

I would like to reiterate that I regret that it has become necessary for this course of action to be taken and on behalf of the Governing Body of **[INSERT SCHOOL NAME]**, I would like to take this opportunity to thank you for your hard work and to wish you well for the future.

Yours sincerely

[INSERT NAME]
HEAD TEACHER

APPENDIX 3

LETTER INVITING EMPLOYEE TO APPEAL HEARING AGAINST EXPIRY/ENDING OF A FIXED TERM CONTRACT

USE SCHOOL HEADED PAPER

[INSERT DATE]

Dear **[INSERT NAME]**

**Re: Appeal Hearing for the Expiry/Ending of Fixed Term Contract of
Employment**

I am writing to notify you that your appeal against the decision not to renew your fixed term contract will be heard on **[INSERT DATE]** at **[INSERT TIME]** in **[INSERT LOCATION]**. Your appeal will be heard by the Governors' Appeal Panel consisting of **[INSERT PANEL NAME/S]**.

You are entitled to be accompanied at this meeting by a work colleague or an appropriately trained and elected trade union representative. If you are unable to make this meeting, please contact me suggesting an alternative date within five working days of the original date suggested above.

Please let me have a copy of any documentation you wish to be considered at the appeal by **[INSERT DATE]**.

Yours sincerely

**[INSERT NAME]
CHAIR OF APPEAL PANEL**

APPENDIX 4

LETTER CONFIRMING OUTCOME OF APPEAL HEARING AGAINST TERMINATION OF FIXED TERM CONTRACT

USE SCHOOL HEADED PAPER

[INSERT DATE]

Dear **[INSERT NAME]**

Re: Outcome of Appeal against Non-Renewal/Ending of Fixed-Term
Contract of Employment**

Following careful consideration of your appeal against the expiry of your fixed term appointment as **[INSERT POST TITLE]** in **[INSERT SCHOOL]** I write to confirm that the Governors' Appeal Panel have agreed that you should cease work at **[INSERT SCHOOL]** on **[INSERT DATE]** by reason of dismissal. The school is unable to renew your contract of employment because **[REASON]**.

Or

Following careful consideration of your appeal against the expiry of your fixed term appointment as **[INSERT POST TITLE]** in **[INSERT SCHOOL]** I write to confirm that the Governors' Appeal Panel have overturned the decision that you should cease work at **[INSERT SCHOOL]** on **[INSERT DATE]** by reason of dismissal. The school have therefore chosen to renew your contract of employment because **[REASON]** making the appointment fixed term until **[DATE]** OR making this appointment permanent **[REASON]**. *Delete as appropriate.*

*Delete as appropriate**.* This decision is final and there is no further right of appeal.

I should like to take this opportunity to thank you for your service to the **[INSERT SCHOOL]** and to wish you all the very best for the future.

Yours sincerely

**[INSERT NAME]
CHAIR OF APPEALS PANEL**

**** Delete as appropriate**

