

TO: EMPLOYMENT COMMITTEE – 27TH JUNE 2005

SUBJECT: GUIDANCE IN RELATION TO FIXED TERM EMPLOYEES

FROM: CORPORATE PERSONNEL SERVICES

1. Purpose of the Report

- 1.1 To present draft guidance in relation to the appointment of fixed term employees.

2. Background

- 2.1 The Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations are to ensure that fixed-term employees are treated no less favourably than comparable permanent employees on the grounds that they are fixed term employees unless this treatment can be objectively justified.
- 2.2 The Regulations cover all aspects of employment and also govern successive use of fixed term contracts; introduce a statutory limit of 4 years for one-off and successive fixed term contracts; and establish the rights of employees who believe their rights have been infringed.

3. Proposals

- 3.1 The attached guidance for the recruitment, employment and termination of fixed term appointments is adopted.
- 3.2 Whilst case law is still emerging the only area in which a different approach to fixed term workers is recommended is in relation to redundancy at which stage it is not proposed to:
- protect salary in the event of redeployment to a lower graded post
 - offer enhanced severance or early retirement benefits, but to base redundancy benefits on the statutory maximum for a weeks pay which is currently £280 .

The justification for this is that the contract was entered in to with different expectations than a permanent long term contract.

4. Trade Union Consultation

- 4.1 The unions welcome further guidance on the employment of fixed term workers and endorsed the proposal that all vacancies should be advertised in the event that they become a permanent opportunity. However reservations were expressed in relation to some of the proposals. The basis for these concerns is the potential for a 'two tier' workforce.

- 4.2 In relation to the proposal not to protect salary in the event a fixed term employee is redeployed in a redundancy situation to a lower graded job – UNISON and MPO would advocate at least one years’ protection of salary.
- 4.3 In relation to the proposal not to offer enhanced severance or early retirement on the ground of redundancy payments – UNISON and MPO would advocate that some additional compensation be made for the loss of employment. For example an additional four weeks pay, or consideration could be given to basing redundancy payments on actual pay week’s pay as opposed to statutory maximum (currently £280).
- 4.4 UNISON and MPO have both expressed considerable concern on behalf of existing staff on fixed term contracts who would be affected by the introduction of any changes to redundancy entitlements. In particular they have raised the case of staff at Regenesis, where the projects are all coming to and end by March 2006, who feel that a change in entitlement would directly affect them should the end of their contracts result in redundancy.

5. Policy and Budget Framework

- 5.1 These proposals are part of a range of initiatives and policies designed to support the efficient and effective working of the Council and also to protect the interests of the Council and its staff.

6. Recommendations

- 6.1 Employment Committee consider the attached guidance and the trade union views, and make appropriate recommendations.

Assistant Chief Executive (Personnel)

BACKGROUND PAPERS - None

Areas in District Affected: None

Key Decision: No

Included in Forward Plan: No

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