



<u>Policy Title</u>	Employment of Temporary and Fixed Term Employees
<u>CCMT Sponsor</u>	Director of Resources
<u>Department/Area</u>	Human Resources
<u>Section/Sector</u>	HR Strategy

1.0 Rationale

The reasoning for this policy is to ensure that Thames Valley Police complies with legislation; Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 which came into force on 1 October 2002.

2.0 Intention

To provide a force wide policy framework in the employment of persons on fixed term contracts in order that legislation and Best Practice are followed.

3.0 General Principles

3.1 Thames Valley Police Statement

Line Managers should discuss their resourcing requirements with their Personnel Manager.

If a worker is required but not on a permanent basis then there are several options which are available.

When deciding on either of the following options it is important to think about how long the person will likely to be needed for, what skills they will need to be able to do the job, and the costing of each of the options.

3.2 Use of agency temporary employees

If an employee is required for a short period of time it is advisable to use a temporary employment agency worker. Although this option

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may initially seem slightly more costly, it reduces the risk of inadvertently treating a Fixed-term employee less-favourably.

If an employee is needed and they are required to possess police officer skills then it may not be appropriate to use a recruitment agency. Personnel Managers will be able to agree the best method of employing a person with these required skills. In all cases Personnel Managers need to be consulted with.

The organisation has a contract set up with several Recruitment Agencies to supply temporary staff. Personnel departments have details of this contract or details can be obtained from the Procurement department.

3.3 Fixed-term Contracts Employees and Casual Employees

Fixed-term contracts should only be used by Thames Valley Police when there is a specific business need. Both the Personnel Manager and Area Commander/ Head of Department need to agree that this is the best option for the post.

Casual employees fall under the Fixed-term employees regulations, so should also only be used when there is a specific business need and that use is authorised by the Personnel Manager and Area Commander/ Head of Department.

4.0 Challenges & Representations

Head of Human Resources
Thames Valley Police Headquarters
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5.0 Guidance, Procedures & Tactics**Roles and Responsibilities****5.1 Line Managers**

Line Managers must discuss their resourcing issues with the Personnel Manager to ensure that the options are carefully looked at and the best option picked to meet the organisation's needs. Temporary employment requests can be made to Personnel Managers on the "Request for Temporary Employment" Form attached at Appendix 1.

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It is the Personnel Managers responsibility to :-

- Authorise the use of fixed-term contracts and casual employees in conjunction with the Area Commander/ Head of Department.
- Issue, audit and renew fixed-term employee's Statement of Main Terms and Conditions ensuring that :
 - it includes a provision which determines how the contract will end, either by a specified date, or on completion of a particular task or on the occurrence or non-occurrence of a specific event
 - the reason why the fixed-term contract is being used
 - no waiver clauses are included in the Statement e.g. in relation to redundancy rights
 - the fixed-term employee is treated no less favourably than a comparable permanent employee.
 - any fixed-term employee who is employed for one month or more is issued with a Statement of Main Terms and Conditions in line with the employer's statutory duty. This applies even if a fixed-term employee leaves the employ of the Force after completing one month's work but before completing two.
- Monitor the use of fixed-term Contracts on their Area/ Department.
- Answer all concerns and issues raised regarding fixed-term Contracts.
- Respond to any requests for written statements within 21 days of receiving the request, ensuring that full investigations have taken place. The written statement can be used as evidence in any proceedings under the Regulations. Failure to provide a statement may result in a complaint to an Employment Tribunal.
- Ensure that fixed- term employees are given the same opportunities to receive training' and to apply for permanent positions as any comparable permanent employee.
- Ensure that fixed-term employees are not unfairly dismissed.

5.3 Area Commander/ Head of Department

Area Commander/ Head of Department must authorise the use of fixed- term Contracts and Casual employees in conjunction with the Personnel Manager.

5.4 Employment Relations Manager

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The Employment Relations Manager is available to give any advice to Personnel Managers on the issue of fixed-term Contracts. It will also be the responsibility of Human Resources to ensure that this policy is kept up to date and in line with legislation.

5.5 Definition of Fixed-term Employees

A fixed-term employee is an employee who is on a contract that lasts for a specified period of time, or will end when a specified task has been completed, or, a specified event does or does not happen. Examples of these include; employees covering maternity leave, employees covering for peaks in demand and employees on task contracts such as setting up a database.

5.6 Exclusions

There are a number of exclusions which do not fall into the scope of the legislation, these are:-

- Employees under a contract of apprenticeship
- Agency workers
- People who are supplied by an employment business to do work for another person under a contract or other arrangements made between the employment business and the other person
- Fixed-term employees who are employed on a scheme, designed to provide them with training or work experience for the purpose of assisting them to seek or obtain work, which is either:-
 - Provided to them under arrangements made by the Government
 - Or funded wholly or partly by an Institution of the European Community
- Fixed-term employees whose employment involves undertaking a period of work experience, not exceeding one year, as part of a higher education course

5.7 How does the equal treatment principle work?

A fixed-term employee has the right not to be treated less favourably as a result of their fixed-term status (whether in regards to the terms and conditions, or by being subject to any other detriment) than a comparable permanent employee on the ground that he/she is a fixed-term employee, unless the different treatment can be objectively justified. Areas particularly included are; detriments in relation to length-of-service qualifications for any benefit, training opportunities and opportunities to apply for permanent employment.

NOT PROTECTIVELY MARKED**5.8 Who does a fixed-term employee compare conditions with?**

A fixed-term employee can compare treatment with that of any permanent employee who does the same or broadly similar work for the same employer in the same establishment, with regard to whether they have a similar levels of qualification and skills. If no comparable permanent employee can be found in the same establishment then they can use a comparator based in another of the employer's establishments.

5.9 What other rights does a fixed-term employee have?**5.9.1 Written statements**

Where a fixed-term employee considers that they may have been treated in a less favourable way to a comparable permanent employee they have the right to request in writing a written statement giving particulars of the reasons for the treatment. The employer must provide this statement within 21 days of the request. The statement should set out the reasons for the different treatment or, if less favourable treatment is not occurring, that this is the case.

A fixed-term employee can also ask their employer for a written statement to confirm that their contract is to be regarded as a permanent one, once they have been employed on successive fixed-term contracts for more than four years (excluding any service prior to 10 July 2002).

Failure to provide a written statement when requested could result in a complaint being made to an employment tribunal.

5.9.2 Non-renewal of fixed-term contracts

The non-renewal of a fixed-term contract concluded for a specified period of time is a dismissal in law, as is the expiry of a task contract when a specified task has been completed or a specific event does or does not happen.

Employees on task contracts of one year or more will have a right to a written statement of reasons for this dismissal and the right not to be unfairly dismissed. If the contract lasts for two years or more and the contract is not renewed by reason of redundancy, the employee will have a right to a statutory redundancy payment.

5.9.3 Permanent employment if successive fixed-term contracts are issued

If fixed-term employees have their contracts renewed, or are re-engaged on a new fixed-term contract, when they already have a period of four or more years of continuous employment (excluding any service prior to 10 July 2002) the renewal or new contract takes place

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as a permanent contract unless employment on a fixed-term contract was objectively justified.

The renewal will be justified on objective grounds if it can be shown that the use of a further fixed-term contract :

- is to achieve a legitimate objective, for example a genuine business objective
- is necessary to achieve that objective
- is an appropriate way to achieve that objective

Case law will determine this more clearly in the future.

If an employee considers that by virtue of the use of successive fixed-term contracts he/she is a permanent employee he/she can request in writing a written statement confirming that their contract is no longer fixed-term or that they are now a permanent employee.

A written statement must be provided within 21 days of the employee's request and must either confirm that the contract is no longer fixed-term or the employee is now permanent; or reasons why the contract remains fixed-term. If the reasons why the employer believes the contract remains fixed-term include objective grounds the statement provided to the employee should include a statement of those grounds.

Any written statement so provided is admissible in Employment Tribunal proceedings. If no statement is made and the employee remains employed by the employer they can apply to an employment tribunal for a declaration that they are a permanent employee.

5.9.4 Redundancy rights

Fixed term employees should not be selected for redundancy purely because they are on fixed-term contracts, unless this is objectively justified.

Under the new regulations employees on fixed term contracts are unable to waive their right to a redundancy payment. Any such waivers which are inserted into contracts agreed, renewed or extended after 1 October 2002 will be void and fixed-term employees will have a right to statutory redundancy payments if they have been continuously employed for two or more years. However, they may be excluded from contractual redundancy schemes if this is objectively justified, perhaps because of the purpose of the scheme is to compensate for unexpected job loss, whereas fixed-term employees may have no reasonable expectation of renewal.

NOT PROTECTIVELY MARKED**5.9.5 Right not to be subjected to any detriment**

An employee has the right not to be subjected to any detriment by any act, or any deliberate failure to act, because the employee has :

- i) brought proceedings against the employer under the Regulations;
- ii) requested from the employer a written statement
- iii) given evidence or information in connection with any proceedings brought by the employer;
- iv) otherwise done anything under the Regulation in relation to the employer or any other person;
- v) alleged that the employer infringed these Regulations; or
- vi) refused (or proposed to refuse) to forgo a right inferred on him or her by these Regulations; or that the employer believes or suspects that the employee intends to do any things mentioned in i)-vi)

5.10 To ensure that only people of unquestionable reliability are employed by Thames Valley Police it is necessary to carry out security clearance and vetting requirements on all temporary employees no matter how long they may be employed for.

5.11 Health and Safety

In accordance with the Management of Health and Safety at Work Regulations 1999, when consideration is being given to employing someone on a temporary basis there is a need to risk assess the role and inform that person if they are under a fixed-term contract or the agency if they are an agency worker of any significant health and safety requirements for that role prior to engagement.

All employees, when they start, must go through the Health and Safety Induction form, Per 4 with their Line Manager or nominated person.

5.12 Documentation of Decisions and Decision Making Process

It is the Personnel Managers and Area Commander/ Head of Department responsibility to ensure that the best resourcing option has been chosen for the post. If a fixed-term employee is the best option then this needs to be approved by the Personnel Manager and Area Commander/ Head of Department.

It is the Personnel Manager responsibility to ensure that a written statement is provided within 21 days of the request to the employee, detailing reason for the different treatment, or if less favourable treatment is not occurring, that this is the case.

6.0 Communication

6.1 Links to Police National Legal Database Other

No links to other policies.

6.2 Communications Strategy

The policy will be placed on the Thames Valley Police Intranet and Internet site and will be added to the blue Human Resource handbooks. It will be published in All User E-mail and in Manager's Briefing.

Target audience = Personnel Managers, Line Managers and other employees who have responsibilities for recruiting staff have a responsibility to follow this policy to ensure that legislation is followed.

7.0 Compliance and Certification

7.1 Human Rights Certification

(i) Legal Basis

Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002

(ii) Human Rights Articles Engaged

There is potential for Article 14 - Prohibition of Discrimination.

Audited by: Gillian Wyeth
Audited on: 20 January 2003

(iii) Prohibition of Discrimination

This policy is to be used to prevent discrimination of fixed-term employees.

7.2 Diversity Impact Assessment

This policy has been assessed as having a low impact on the six strands of Diversity.

7.3 Diversity (Human Resources)

In the application of this policy, the Force will not discriminate against any persons regardless of their

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gender, sexual orientation, race or ethnic origin, religion, age or disability.

7.4 Data Protection

Personal data and information obtained in connection with this policy should be processed in accordance with the Data Protection Act 2000. Those principles relating to the use of sensitive data also apply in respect of personal data e.g. age and ethnicity.

7.5 Freedom of Information Act

This policy is suitable to be made available to the public.

7.6 Protective Markings

This policy has been assessed as NOT PROTECTIVELY MARKED.

7.7 Health & Safety at Work

Health and Safety legal requirements for the employment of agency workers and those on fixed term contracts are contained within Regulations 12 and 15 of the Management of Health and Safety at Work Regulations 1999.

There is a need to assess the risk for the role and inform that person or the agency of any significant health and safety requirements prior to engagement.

8.0 Monitoring and Review**8.1 Links to Best Value/PPAF/Priorities/Performance Indicators**

This policy has been written to ensure that there are no gaps in any of Thames Valley Police's policies and to ensure that legislation and Best practice are followed.

By having the policy in place it will help to support a working environment.

8.2 Review Process

A full review will be carried out every 2 years by the policy author and will examine:

- Changes in legislation
- Court rulings – Domestic, European and Human Rights
- Examples of good practice from other Forces or other organisations
- Changes in Home Office Circulars
- Developments with ACPO Policy Unit

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- Representations made by individuals and relevant organisations
- Relevant diversity data

APPENDICES

APPENDIX A

Request for Temporary Employment

Part 1 to be completed by Line Manager and sent to Personnel Manager on completion

Line Manager Name _____
Department _____

Job title of position (If no job title main responsibilities)

Is cover for specific person (name)

Date Required _____ For length of period

Days/ Hours required

Comments (Line Manager/ Personnel Manager)

Agreed Action/ Justification

Area Commander/ Head of Department signature

Personnel Manager signature

Person recruited (name)

Hours of work

Pay rate _____

Health and Safety Induction form (Per4) completed and signed Date

Type of contract issued Fixed-term Part-time Full-time Agency
(name) _____

If fixed-term date of contract expiry _____