



# UNIVERSITY OF WESTERN CAPE (UWC)

## POLICY GUIDELINES IN RESPECT OF FULL-TIME FIXED TERM CONTRACT EMPLOYEES

DATE OF LAST APPROVAL: C2006/6



UNIVERSITY OF WESTERN CAPE  
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## **POLICY GUIDELINES IN RESPECT OF FULL-TIME FIXED TERM CONTRACT EMPLOYEES**

### **1. INTRODUCTION**

The Scope of the Full-Time Fixed Term Contract Policy includes full time fixed term contract employees. The policy excludes Executives, Deans, Directors, Post Retirement Age Policy Employees as well as current permanent and part-time positions. A Guideline and Practices document will align the operational requirements with the policy document which provides clear principles for implementation and application.

### **2. POLICY GUIDELINES**

The following guidelines should be followed in managing full time fixed-term contracts at UWC:

No unfair discrimination directly or indirectly on the basis of race, age, gender or any one of the grounds mentioned in sec 6 of the Employment Equity Act should be allowed.

Because of the financial burden of providing benefits to employees on fixed-term contracts, different categories of fixed-term contract employees are provided for. In principle, the shorter the period of employment, the bigger the difference should be between the benefits enjoyed by permanent compared to employees of fixed-term contracts. Conversely, the longer the period of service, the smaller the difference should be.

The period of service for purposes of this policy should be determined with reference to the total number of years of, continuous, full time years of service in the same position with UWC, and not the periodicity of the staff members' temporary contracts.

Appointments on fixed-term contracts should only be used where the position concerned is indeed of a temporary nature or the duration of the appointment is dependent on uncertain factors, e.g. availability of funding.

A distinction should be made between persons funded entirely by UWC; and those wholly or in part by external sources.

HOD's should strike a balance between the UWC's need to limit its employment risks and the legitimate expectations of temporary staff.

The policy does not apply to student assistants, examiners or moderators or persons who render services for remuneration as part of their training.

This policy is not retrospective in its application and may be phased in.

The policy distinguishes between granting temporary staff pro rata benefits and appointing them on a permanent basis.

The policy distinguishes between appointments at executive level and other fixed-term contract appointments.<sup>1</sup>

### **3. CATEGORIES**

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**Document Name**  
Policy Guidelines in Respect of Full-time  
Fixed Term Contract Employees

**Revision Date**  
October 2007  
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<sup>1</sup> For reasons of good corporate governance it is common for persons at executive level to be appointed on a fixed-term with no right of renewal or permanency beyond that.

In line with the policy guidelines above, the following categories of appointments are provided for:

**Category 1:** persons employed for a continuous period of up to two years on a fixed-term contract in the same or different positions;

**Category 2:** persons employed for a continuous period of more than two years and up to five years in the same or different positions, or who are employed for more than five years in different positions;

**Category 3:** persons employed for a continuous period of more than five years in the same position.

#### **4. TERMS OF EMPLOYMENT FOR THE DIFFERENT CATEGORIES**

In this document, "continuous service" means that the service is not interrupted by a period of absence in excess of normal annual, sick or maternity leave. (It must be borne in mind that the term has a different meaning for the purpose of determining the length of an employee's employment for any provision of the Basic Conditions of Employment Act<sup>2</sup>)

For purposes of this document, the term "the same post" refers to the same functions or duties, irrespective of the title of the post.

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<sup>2</sup> In terms of the BCEA, interruptions of less than one year between periods of employment by the same employer are regarded as continuous. This means that if severance pay is payable to a temporary staff member who is made redundant, the entire period of employment at UWC must be taken into account even if there were a series of fixed-term contracts, unless the period between the end of the previous appointment and commencement of the new one exceeds one year. The same applies to the calculation of pro rata leave pay. Because the BCEA does not deal with benefits in general, e.g. retirement or medical, study assistance, etc. UWC may stipulate a different time frame for determining whether service is to be regarded as continuous or not.

***Category 1: persons employed for a continuous period of less than two years on a fixed-term contract in the same or different positions***

- Persons falling into this category are not entitled to any benefits other than their agreed salary/wage.
- They remain temporary.
- Any termination prior to that date (e.g. for operational requirements) is subject to the provisions of the LRA.
- No UWC benefits should be granted.
- Annual, family responsibility, maternity and sick leave entitlements may be as per Basic Conditions of employment Act (BCEA), but should be consistent for all employees in this category.
- There is no right to permanent employment or renewal of the appointment after expiry of the period.

***Category 2: persons employed for a continuous period of between two and five years in the same or different positions and persons employed for longer than 5 years in different positions***

- Persons employed in this category remain temporary.
- They may negotiate a restructuring of their remuneration package in terms of which funds may be allocated towards benefits instead of cash payments, including, to the extent allowed by the rules, the university's medical aid funds subject to a limited option.
- Annual, family responsibility, maternity and sick leave entitlements may be as per UWC's policy, but should be consistent for all employees in this category.

- Any termination prior to the agreed date (e.g. for operational requirements) is subject to the provisions of the LRA.
- There is no right to permanent employment or renewal of the appointment after expiry of the period.

***Category 3: persons employed for a continuous full-time period of more than five years in the same position***

- Persons who have been employed in the same post for more than five years may be appointed to the university's permanent staff.
- Terms and conditions of service of permanent staff are applicable.
- If a person has been appointed to the same post on renewable contracts, the consent of the relevant dean or section head must be obtained to extend the contract beyond a five year period.
- All persons falling into this category will progressively have the same benefits as permanent employees.
- Termination of the contract of employment of persons falling into this category must be dealt with in the same manner as the termination of the contracts of permanent staff members.
- If the post is funded through external sources, or mainly through external sources, allocation of permanent benefits will be subject to such funding. However, where funds are not made available for this purpose, the person may negotiate a restructuring of their remuneration package in terms of which funds may be allocated towards benefits instead of cash payments, including, to the extent allowed by the rules, the university's medical aid and retirement funds. While the university will pay monies deducted to the fund or medical aid scheme concerned, the university will not contribute to such fund or scheme.



## 5. MANAGING FIXED-TERM CONTRACTS

- (i) all fixed-term contracts should be in writing
- (ii) they must contain an acknowledgment that the appointment is temporary and will expire automatically at the end of the term;
- (iii) they should stipulate that renewal is not automatic and that no expectation of renewal or permanent appointment may be harboured;
- (iv) If it appears that the employee may have reason to expect renewal, this should be addressed at the earliest opportunity. In cases of doubt, the contract should be terminated in the same manner as that of permanent staff members;
- (v) There should be no unauthorised promises of renewal. All fixed-term contract staff must be informed in writing of the identity or designation of the persons who are authorised to contract on the university's behalf;
- (vi) Fixed-term appointments should not be made if they cannot be justified with reference to the requirements or uncertain nature of the position.



9/18/2009

Compiled: **Sanet Koster**

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Fixed Term Contract Employee Project

Summary: Guidelines for Categories (Benefits)

Guidelines	Category 1: <2 years	Category 2: 2- <5 years	Category 3: 5 years
Retirement	None	None	As per policy
Medical	None	66% contribution to basic core <b>plan</b> at any of schemes at offer	66% contribution on full scheme. Choice between medical aids on offer
Housing	None	None	As per policy
Group Life	None	None	As per policy
13 <sup>th</sup> Check	None	As per policy	As per policy
Studies	None	50% rebate for employee and direct children (dependants excluding spouse)	100% . rebate for employee & direct children (dependants) & 50% for spouse. 75%, of study fees paid at another institution if course not available at UWC.

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9.2.3. SA 2006/8 (C Annex 2006/6/7)

**Discussion:** Council noted that the purpose of the Full-Time Fixed Term Contract Policy is to manage fixed term contract employees. Council further noted Senate's comments on the Policy and that all stakeholders have been consulted.

**Decision:** Council approved the report including the Full-Time Fixed Term Contract Policy.