



Ryedale District Council

REPORT TO: Policy & Resources Committee

DATE: 2 August 2007

REPORTING OFFICER: Head of Human Resources
Louise Sandall

SUBJECT: **FIXED TERM CONTRACTS POLICY**

WARDS AFFECTED: None

1.0 PURPOSE OF REPORT

1.1 To advise Members in regard to the issues relating to the employment of staff for short term needs i.e. Fixed Term Appointments (FTA) and Short Term Appointments (STA) and to seek Members approval of the new Fixed Term Contracts Policy to be implemented at Ryedale District Council.

2.0 RECOMMENDATIONS

2.1 It is recommended that the policy is adopted with immediate effect.

3.0 REASONS SUPPORTING DECISION

3.1 It is a legislative requirement for the Council to ensure that any staff employed on Fixed Term Appointment contracts should be treated no less favourably than comparable permanent staff under the "Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002" and that any difference in treatment must be either objectively justified or eliminated. This is regardless of whether the contract is for more or less than 12 months.

4.0 BACKGROUND & INTRODUCTION

4.1 Currently Ryedale District Council does not have a policy on Fixed Term or Short Term appointments. This increases the risk of an inconsistent approach being applied across the authority and as such leaves the authority vulnerable to non-compliance and ultimately legal challenge. The Council currently employs in excess of 15 employees on these types of contracts.

4.2 In brief, employment rights can be summarised as: all employees employed for over one year have the legal right to go to an employment tribunal; over 2 years service an employee has further rights to claim for redundancy; once an employee has accrued over 4 years service they have the right to be made permanent if they are not already.

5.0 POLICY CONTEXT

5.1 This policy impacts on Ryedale District Council Recruitment policy.

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6.0 REPORT

6.1 Scope of Regulations

Under the Fixed Term Employees Regulations (Prevention of Less Favourable Treatment) Regulations 2002 (SI 2002/2034), fixed term employees have the right:

- not to be treated less favourably than a comparable permanent employee with regards to terms and conditions of employment;
- to be informed of suitable permanent vacancies in the Authority;
- to have their contracts automatically converted to indefinite ones after four years (the four years must start after 10th July 2002 and there must be two or more successive contracts);
- the right not to be selected for redundancy or be unfairly dismissed if the principal reason for the selection was because they were a fixed term employee;
- to make a complaint to a tribunal seeking a written statement which sets out the reasons for the less-favourable treatment complained of.

6.2 Proposed Fixed Term Contract Policy

To meet the legal requirements and to protect the Council's interests the following policy is suggested:

6.3 Redeployment:

After 2 years of service the employer is legally obliged to explore all redeployment options before termination of the contract is considered. However, it is advised that this is considered with all fixed term appointments over 1 year.

6.3 Termination Of Employment

The regulations requires employers to follow a clearly defined process when terminating Fixed Term Appointees and it is best practice to also do this with Short Term Appointees, therefore it is strongly advised that this procedure is followed for all short term appointments. Three key steps have to be followed

- i. Written statement why the contract is not being renewed;
- ii. Invitation to a meeting to discuss the situation and offering the right to appeal;
- iii. Right of appeal to a more senior manager.

7.0 FINANCIAL IMPLICATIONS

7.1 No further costs should be incurred.

8.0 LEGAL IMPLICATIONS

8.1 The Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002.

9.0 RISK ASSESSMENT

9.1 The greatest risk to the Council is the failure to agree a Fixed Term Contract Policy or the failure to adhere to it once agreed. Adoption of, and adherence to, the policy substantially reduces this risk and therefore there is a significant reduction in the likelihood of any potential legal challenge in the future.

9.2 The Council should also consider the impact of any future restructuring programmes within Ryedale District Council and in the wider local government context when recruiting STAs and FTAs. There is a need to ensure that any internal recruitment options have been considered and exhausted before embarking on any external recruitment, even for work of a short-term nature.

10.0 CONCLUSION

10.1 Ryedale District Council has to have a policy for Fixed Term and Short Term employees and must by law adhere to the termination process. A policy and procedure has been drawn up by Human Resources which following approval of the policy will be published on the Council's intranet. The policy will take immediate effect. This policy has been through UNISON consultation.

Background Papers: **Ryedale District Council Fixed Term Appointment Policy**
Ryedale District Council Short Term Appointment Policy

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