



Bargaining &  
Negotiations  
Department

# Negotiating on casualisation in higher education

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An updated UCU bargaining guide for  
branches

November 2017 revised July 2024

## **In brief...**

This document contains fully updated negotiating guidance for UCU branches dealing with casualisation in higher education. The guidance is aimed at helping branches to identify key negotiating objectives and supporting them with bargaining around these aims.



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# Introduction

This is a turbulent time in higher education and we recognise that branch officers face many competing demands. However, UCU must prioritise the fight for staff on casual contracts, firstly because it's the right thing to do for hard-working staff on casual contracts, often struggling to make ends meet, always struggling to build an academic career. But it's also important because if we accept the status quo for casualised staff it encourages universities to look to drag down conditions for everyone. Finally, if we're going to build our union as an effective voice for the academic and related community in the workplace, we have to ensure that we are an effective advocate for staff on casual contracts.

We have an opportunity at the current time to build some public pressure. There is continued public interest in precarious employment contracts, coupled with a growing concern among universities about their ability to demonstrate the quality of their teaching and research to bolster their reputations. This conjuncture demands that the union press the interests of our casualised members with all possible energy.

UCU's national strategy involves working to raise the public and political profile of casualisation in our sector and then turning this into pressure and leverage to support targeted campaigning, organising and collective bargaining at local and national level. The political profile of zero hours contracts has provided a useful context for this strategy.

If we want to deliver for casualised staff *now*, however, our key lever is the local collective agreement.

And we need to be prepared to campaign in support of our negotiations to convince managements that they need to engage with our arguments. Effective campaigns have been built by branches who are prepared to argue for the centrality of this issue with their core membership, engage their members in support of casualised staff, take the arguments out to their communities, to the local and national press and most importantly, to build creative campaigning alliances with their students. We have produced guidance to help branches with this which you can download here:

[http://www.ucu.org.uk/media/pdf/k/c/ucu\\_buildingeffectiveanticascampaigns\\_jun15.pdf](http://www.ucu.org.uk/media/pdf/k/c/ucu_buildingeffectiveanticascampaigns_jun15.pdf)

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It's vital to involve casualised staff in all aspects and phases of our work: campaigning, organising and negotiating on casualisation. This means that you should be regularly

consulting with casualised staff about formulating your claims to management, responding to management offers, the progress of negotiations and so on. Wherever possible, involve casualised members in developing your negotiating position and in staffing your negotiating teams.

UCU has won some significant agreements for casualised staff in recent years and this campaign has real momentum. We hope this guidance will give you the confidence to be part of it too.

# Getting started – First, know your casualised staff...

Casualisation is a complex process. It's wrapped up with a whole raft of changes in our sector that have fragmented roles and changed the nature and composition of the post-secondary education workforce.

The result for branches is that there are likely to be several groups of staff in their institutions on different kinds of insecure contract.

All of the staff on insecure contracts share a common characteristic. Their working life is more or less precarious.

Many are on short-term contracts and don't know whether they will be employed from year to year.

Others are paid by the hour and live precariously because their pay only covers part of what they do or their hours can be varied at will by their employers. Work can shrink or diminish or even disappear entirely and with it goes their income.

However, the different groups of insecure workers in our sectors do have slightly different issues, according to how they are employed.

Every institution will have its own combination of these groups. It's important to map and understand your casualised population before developing a bargaining agenda for your branch.

Below we have set out some typical and commonly found groups of casualised staff. This is a guide to thinking about groups of casualised staff and their needs. It is not intended to be comprehensive and in reality the sector uses a dizzying array of names to describe the different kinds of casualised staff. Yet these are real and commonly used types of casualised staff and it can be helpful to think about their specific needs and how they shape your negotiating strategy.

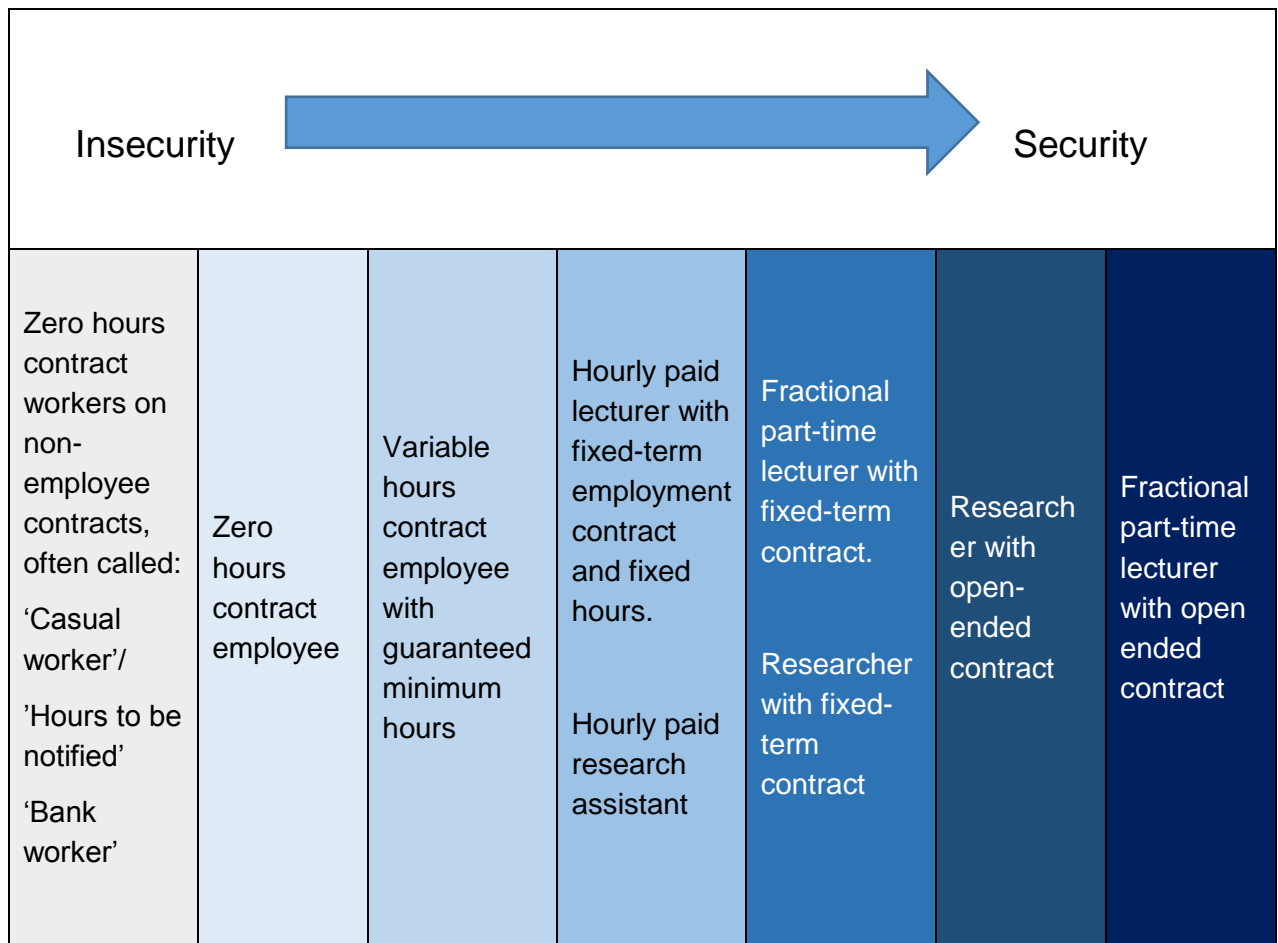
Staff group	Typical descriptions	Typical issues
<b>Postgraduates who teach</b>	PhD student teachers and demonstrators, often called Postgraduate Tutors or Graduate Teaching Assistants.	Hourly pay rates, access to and fair allocation of teaching, may be engaged as 'workers'
<b>Hourly paid lecturers</b>	People doing regular hourly paid teaching. May be called 'Associate Lecturers', 'Associate Tutors', 'Sessionals' or other such names. May be employed on fixed-term contracts or open-ended variable hours or zero hours contracts.	Unpredictable hours, precarious employment, uncertain income, low pay and heavy workloads, not paid to cover all hours worked, lack of career progression.
<b>'Visiting' Lecturers</b>	Can be occasional lecturers who are practising professionals in arts, business, law and other professional areas. However it's important to note that this term can be mis-used to describe people who are in reality doing a lot of hourly paid work and might be better described as Associate Lecturers.	Genuine occasional lecturers are likely to value flexibility but to differing degrees according to professional area. Some in the arts, for example are more dependent on this as an income stream than others in, for example, Business.
<b>Fixed-term teaching staff</b>	Often called 'Teaching Fellows', these can be hourly paid, fractional or term-time only teachers.	Heavy teaching workloads, short contracts, only paid for part of the year and for teaching. No access to scholarly time or research. No career progression.
<b>Fixed-term researchers</b>	Research staff on fixed-term contracts	On contracts lasting from a few months to 3 years. Likely to have been on several contracts and unable to get transfer to permanency as employment 'tied to funding'. Likely have breaks in continuity of service.
<b>Open-ended research staff with fixed funding and an 'at risk' date</b>	Research staff on open-ended contracts but employment at risk when funding expires on an identified date.	Accumulating service continuity but at risk of redundancy when funding ends. Little more security than a FTC.



# UCU's strategic objectives

It can be helpful to think of the range of insecure contracts as though they are on a spectrum from insecurity to security. It might look a bit like this...

## The spectrum of casualisation



Remember, not every contract will fall neatly into one or other of these boxes but this is a useful way to start to think about the contracts in use on your campus and to think about how to improve them. If you are in doubt about the contract you are looking at get advice from your Regional / National Official.

Our general strategic aim is to move people up the spectrum toward greater security and to create better jobs.

We do this within a range of more specific policy objectives, most of which are set out by UCU's annual Congress. These more specific objectives can be summarised as follows:

<b>Key policy issue</b>	<b>Rationale</b>
<b>Correct pay and grading of work</b>	Important to stop employers driving down the 'rate for the job'
<b>Eradication of 'worker' status and agreement that all staff should be employees</b>	Vital to ensure that staff have an equal floor of employment rights, pay and pensions and also maintain the rate for the job.
<b>Eradication of all forms of zero hours contracts</b>	UCU policy is clear that zero hours contracts are unacceptable and flexibility can be catered for in other ways.
<b>Limits on the variability of variable hours contracts</b>	It's important that variable hours contracts don't function practically as zero hours contracts. If your hours can be varied to zero without a redundancy process, you are on a zero hours contract, whatever it's called.
<b>Substantial moves toward the creation of open-ended fractional contracts</b>	Where people are working regular hours and do so with any degree of predictability, they should be on a fractional (part-time) contract.
<b>Commitments to reduce and limit the use of fixed-term contracts</b>	Fluctuations in student demand are rarely so violent as to necessitate the extensive use of fixed-term contracts. Equally, funding for research being finite doesn't justify the use of fixed-term contracts.
<b>No compulsory redundancies as a consequence of any agreements</b>	It's important that we are not making agreements that force people out of work as a direct consequence. We are not in the business of playing staff groups off against each other.
<b>Establish standing negotiating forum for dealing with casualisation</b>	It's important to get it fixed in the minds of employers – and branches – that they should constantly be working to improve conditions for those on non-permanent contracts.



# Collective bargaining solutions:

There is more than one way to pursue de-casualisation in our sectors. We could campaign for the law to change to ban certain kinds of contracts or to create a higher floor of employment rights. We can campaign to shame universities into doing the right thing, in the manner of social movement organisations. We can support individual members pursue their claims to be put on a better contract.

In fact we do all these things, as part of a multi-faceted strategy.

But the thing that we do that no one else can do is use our collective strength to pursue collective agreements that benefit large numbers of people in our workplaces.

Because UCU is recognised across the vast majority of FE, HE, Adult and prison education, we are entitled to negotiate on behalf of our casualised staff.

There are several advantages to collective bargaining:

- It's a more efficient use of our resources with the potential to benefit more of our members and potential members;
- It's easier for us to mobilise collective strength around a collective case and play to our strengths. We pose more of a threat to the employer if we are mobilising around an issue at workplace level.
- It's more 'sensitive' to both sets of interests. There are advantages to our employer in negotiating an agreement with us that balances our objectives as a union and theirs as an employer, as well as reflecting the particular features or needs of their organisation.

UCU has adopted a strategy of proactive collective bargaining in all our sectors. That means that we are encouraging and supporting branches to table 'claims' with their employer and to mobilise their strength in support of negotiating agreements that benefit casualised staff.

What kind of agreements we seek will depend on which parts of the casualised workforce we are targeting. Different groups have different issues and needs that can be addressed by specific kinds of agreement.

We can see this set out below by revisiting our groups of casualised workers, this time inserting the headline of a possible collective agreement or negotiated policy that might address their needs:

## Casualised groups and collective agreements

Staff group	Typical descriptions	Typical issues	Possible collective agreement/negotiated policy
<b>Postgraduates who teach</b>	PhD student teachers and demonstrators, often called Postgraduate Tutors or GTAs	Hourly pay rates, access to and fair allocation of teaching, may be engaged as 'workers'	Agreement to review pay rates and multipliers.  Agreement to move to employment contracts
<b>Hourly paid lecturers</b>	May be called 'Associate Lecturers', 'Associate Tutors' or other such. May be employed on fixed-term contracts or open-ended variable hours or zero hours contracts.	Unpredictable hours, precarious employment, uncertain income, not paid to cover all hours worked, low pay and heavy workloads, lack of career progression.	Agreement to review all hours and fractionalise all above a certain threshold. (see guidance on how to do this on p. 36)  Agreement to build limits into variable hours contracts.
<b>'Visiting' Lecturers</b>	Can be occasional lecturers who are practising professionals in arts, business, law and other professional areas. However it's important to note that this term can be mis-used to describe people who are in reality doing a lot of hourly paid work and might be better described as Associate Lecturers.	Genuine VLs are likely to value flexibility but to differing degrees according to professional area. Some more dependent on teaching as part of income (eg arts professionals).	Insertion of opt-out clause in fractionalisation agreements allowing those who wish to stay as VLs the opportunity to do so.

<b>Fixed-term teaching staff</b>	Often called 'Teaching Fellows'. Can be hourly paid, fractional or term-time only.	Heavy teaching workloads, short contracts, only paid for part of the year and for teaching. No access to scholarly time or research. No career progression.	Agreement to move hourly paid onto fractional contracts. Fixed-term contracts agreement and review. Negotiation of improved contracts or workload allocations to allow time for 'scholarship'
<b>Fixed-term researchers</b>	Research staff on fixed-term contracts	On contracts lasting from a few months to 3 years. Likely to have been on several contracts and unable to get transfer to permanency as employment 'tied to funding'. Likely have breaks in continuity of service.	Agreement to move all research staff onto genuine open-ended contracts with proper redundancy avoidance processes. Negotiated policy to limit use of fixed-term contracts more tightly.
<b>Open-ended research staff with fixed finding</b>	Research staff on open-ended contracts but employment at risk when funding expires.	Accumulating service continuity but at risk of redundancy when funding ends. Little more security than a FTC.	Agreement on a policy to create more redeployment opportunities

# Lodging local claims

UCU believes that, when it works, national level collective bargaining is the most effective way for unions and employers to negotiate. However, in recent years it has become clear that at least in relation to casualisation, our employers have no intention of mandating their national representatives to negotiate anything meaningful at national level. At the same time, UCU has become increasingly effective at targeting employers at local level and then using successes to push others to move (in industrial relations literature this is called pattern bargaining). As well as delivering real and meaningful improvements at institutional level, this currently represents the best way to put pressure on the employers nationally to do more.

From December 2016, UCU has looked to raise the tempo on this effort, encouraging all branches to submit a claim on casualisation. Below, we reproduce some suggested text for a claim and a draft letter that you can adapt to your own circumstances.

When developing these claims, you should always seek advice and guidance from your Regional / National Official. You can also get advice from the Bargaining and Negotiations Department.

Suggested text for a local claim	Notes
<p>“UCU is seeking the establishment of a standing joint review group with a remit to:</p> <ul style="list-style-type: none"><li>• Receive, review and monitor data on the employment of staff on non-permanent contracts.</li><li>• Negotiate agreed processes for transferring staff onto more secure contracts</li></ul> <p>UCU is seeking further agreement on conducting time-limited negotiations on [specific objective as identified from below]”</p>	<p>This could take several forms and UCU is not prescriptive but the key elements are:</p> <p>The establishment of a space where the University commits not just to a one-off review but to ongoing joint monitoring of the use of insecure contracts, as well as committing to regular negotiations aimed at increasing secure employment. Whether this takes the form of a specific standing body or regular meetings of a common interest group, or some other form, it is important that whatever is established is</p> <ul style="list-style-type: none"><li>• tasked with disclosing information on the use of worker contracts, zero hours, hourly paid and fixed-term contracts to assist with negotiation</li><li>• tasked with jointly monitoring this on an ongoing basis</li></ul>

	<ul style="list-style-type: none"> <li>empowered to negotiate policies or agreements that transfer staff onto more secure contracts and monitoring their operation.</li> </ul>
<p><b>An end to the use of 'Worker' contracts:</b></p> <p>"UCU is seeking the transfer of all people teaching via 'worker' contractual arrangements, whether through external agencies, subsidiaries companies or 'bank' arrangements onto proper employment contracts and their assimilation to the National Pay Spine, matched to the National Role Profiles at the appropriate Academic Level."</p> <p><b>Fractionalisation of Hourly-Paid lecturers:</b></p> <p>UCU is seeking a commitment to negotiations on the 'fractionalisation' onto pro-rata contracts of all hourly paid staff who have been working at 0.XFTE or above within a given period (precise level to be determined according to specific hourly paid workforce in place at your institution.)</p> <p><b>An end to the use of Zero hours contracts and controls on variable hours contracts:</b></p> <p>"UCU seeks agreement that staff employed on zero hours contracts will be transferred onto fractional employment contracts or, where the employer can demonstrate that student demand cannot reasonably be predicted, variable hours contracts with ratio of guaranteed hours to flexible hours of at least 2:1"</p>	<p>Branches should work with their Regional / National Officials to agree at least one priority target to be incorporated into the claim alongside the call for a standing review body.</p>



<p><b>Reduction of the use of fixed-term contracts:</b></p> <p>“UCU seeks a review of existing policies for the employment of staff on fixed-term contracts policy with a view to reducing the use of fixed-term contracts and creating greater job security and continuity of employment for academic staff.”</p>	
<p><b>Agreement to investment</b></p> <p>“The university understands that this process will not be cost-neutral and agrees that investment in contractual employment that supports high quality teaching, research and professional services will require additional resources”.</p>	<p>The objective here must be to secure specific commitments to fund investment in transferring staff onto more secure contracts. This is important because policies that make an ‘in-principle’ case for fractionalising staff on hourly paid contracts or transferring staff onto permanent contracts can be defeated in practice by faculty or department-level budgeting policies enforced from a higher level.</p>

# Negotiator's resource: Model claim letter

Dear [NAME]

As you will be aware the issue of the use of insecure contracts in the higher education sector now has a very high public profile. This is a national priority issue for the University and College Union, and now also one for its branch at [UNIVERSITY NAME]

We believe that we have a common interest in improving the contractual terms of employment of staff in higher education. While a few individuals are likely to find them appropriate to their circumstances, the truth is that for the majority insecure contracts have a seriously detrimental effect on the wellbeing of university staff. Whenever they are surveyed, staff invariably express the desire for more secure employment.

Staff in insecure contracts also tell us that their fixed-term and casual terms of employment place major obstacles in the way of them delivering the quality support their students deserve. Mounting pressure on staff has thus far been mitigated by their extraordinary efforts to maintain a high standard of education. But this cannot be expected to last forever unless mitigating action is taken.

Once damaged, reputations are very hard to rebuild. Students coming into the higher education system deserve to know that the people that make their education possible are being employed on contracts, pay rates and terms and conditions that enable them to do their jobs properly. A good student experience is not guaranteed by the quality of a building but by the quality of the educational experience.

UCU wishes to negotiate improvements for staff on insecure contracts. We believe that this should be a priority issue for management as well – especially considering that the University uses [INSERT LOCAL DETAILS]

Where universities and unions have negotiated in good faith, we have seen positive progress in the interest of staff, students and universities.

At the heart of the claim we call for the establishment of a permanent joint apparatus for reviewing, monitoring and negotiating around the issue of insecure contracts. We are calling for the University to make a commitment to work with us to reduce insecurity through this apparatus. In addition, we are calling for negotiations on the following points agreed by the branch:

[INSERT KEY CLAIMS]

# Getting hourly paid staff the proper rate for the job

## The National Framework Agreement

The National Framework Agreement required all staff to be transferred to the national pay spine in a fair and transparent manner and have a normal expectation of progression. The key fundamental principles of the National Framework Agreement are as follows:

HE institutions applying the agreement to use the single pay spine (detailed in Appendix B of the agreement) to determine pay rates for all\* staff (other than clinical academics) covered by national agreements in force on 31 July 2003. \* including hourly-paid staff (p2).

All staff covered by the agreement to have pay progression opportunities within the pay range for their grade.

Arrangements for such progression should be: designed to offer equal opportunities for all staff in each particular grade, and to reward the acquisition of experience and contribution; and operated with demonstrable fairness, transparency and objectivity.

Progression within each pay range will depend in part on an individual's length of service in the grade and in part on an assessment of their contribution; although staff will have a normal expectation of annual progression up to the contribution threshold for their grade, subject exceptionally to established procedures for dealing with performance problems (p3). <https://www.ucu.org.uk/media/277/Framework-Agreement-for-the-modernisation-of-pay-structures/pdf/frameworkagreement.pdf>

Most HE branches' hourly paid staff should be assimilated to the National Pay Spine. In these HEIs, issues may arise from attempts to downgrade teaching staff, introduce new grades or cut pay. In many branches, there is a case for revisiting agreed pay rates for hourly paid staff and arguing for pay to be raised on the grounds that the agreed rates underpay staff for the work they now have to do.

## Grading of hourly paid staff

Under the framework agreement, hourly-paid staff are entitled to the same fairness and equality of treatment as non-hourly-paid staff.

In particular, hourly-paid posts should be subject to the same role analysis and job matching process as non-hourly-paid posts to determine the appropriate grade for such posts.

National academic role profiles were developed and agreed between the employers and the academic trade unions which should be used in this process. The profiles are in 3 job families; teaching and scholarship, teaching and research and research, that are of equal value at each level. There is an expectation that all hourly paid lecturers will assimilate to at least level 2 on the academic scale - the same entry level as non-hourly paid lecturers. However, in the pre-92 sector (only), there is provision for a level 1 Teaching and Scholarship role but this would be for those not carrying out a full lecturing role (as per the role profiles).

For equal pay purposes, the rate of pay for hourly-paid staff must be related to the pay and grading of non-hourly-paid staff, so it's vital to determine the appropriate grade for any staff remaining on hourly-paid contracts. The posts of hourly-paid staff should be subject to the same role analysis process as for non hourly-paid employees, to determine their appropriate pay grade.

## Payment methods for hourly paid staff

There are two main approaches to payment:

1. Payment for each hour worked to deliver effectively the teaching and any other related duties required by the institution, for example preparation, marking, student support, administration, research, attendance at meetings and development. Some HEIs use this method but do not allow enough hours for activities outside the classroom or cap the number of hours that can be claimed for.
2. Calculation of a comprehensive rate which includes payment for teaching and all associated work such as preparation, marking, student support, administration, research, and development.

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If a comprehensive rate of pay is being used then the UCU method of calculation assumes a weighting of at least 2.5 for every teaching hour to take account of preparation time.

It's important to note that this is to account for preparation time, not 'everything else' an hourly paid lecturer does. Branches should look to ensure that other activities are either paid separately or that multipliers are enhanced to reflect them. Examples would include:

- Extra preparation time to delivering a class for the first time
- Time spent attending lectures delivered by module leaders
- Office hours to meet students
- Marking
- Other student contact and support time

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You can find more detailed advice on calculating rates of pay at: [www.ucu.org.uk/3538](http://www.ucu.org.uk/3538)

## Holiday pay

Because of the way in which they are paid, whether or not holiday is being paid properly is a matter of great importance to hourly paid staff.

In theory, this should be a simple matter. The law has recently changed to allow rolled up holiday pay for staff on variable hours contracts (although many employers had been paying this way in any case) but it can also be paid when holiday is taken.

If holiday pay is rolled up it must be clearly identifiable on pay slips as such.

In order to fulfill equal pay requirements and the part-time workers' regulations, holiday entitlement should be calculated and paid on a pro-rata basis against a full-time comparator.

In reality however, there are several major issues with making sure this happens:

1. Employers are rolling up holiday but it is not clear and transparently indicated how much of a pay packet is holiday pay.
2. Some employers are claiming that holiday pay is included in comprehensive hourly rates which account for preparation and assessment time, rather than being accounted separately and paid on top of the comprehensive rate.
3. Some employers are anchoring holiday pay to an inappropriate comparator. For example, when calculating total holiday allowance they are using statutory holiday only (or 12.07%) or holding down the grade of their hourly paid lecturers to ensure that the holiday pay is calculated at a lower percentage. This is another incentive for employers to use 'worker's arrangements.

### *Calculating holiday pay*

To derive the correct holiday pay rate, use the following calculation where:

x = number of days annual leave (make sure you know what this should be)

y = public holidays

z = closure days

a = number of working days in a year (52x5)

b = total number of days on which holiday would be accruing

c = % to be added to hourly rate in lieu of holiday

$$a - (x+y+z) = b$$

$$b / a \times 100 = c$$

So, for example if:

$x$  (Annual leave) = 30 days

$y$  (public holidays) = 8 days

$z$  (closure days) = 3 days

$x + y + z = 41$  days

$260 - 41 = 219$  days on which holiday would be accruing

$41 / 219 \times 100 = 18.7\%$

This figure of 18.7 % then needs to be added to the multiplied, comprehensive hourly rate.

You can see how much holiday can be affected by using a different example. Assume that an employer is paying hourly paid lecturers as workers with the statutory minimum holiday entitlement, counting public holidays as part of this and not paying for university closure days:

$x = 28$

$y = 0$

$z = 0$

$x + y + z = 28$  days

$260 - 28 = 232$

$28 / 232 = 12.06\%$

This is why it's important to check that hourly paid lecturers have their holiday allowance calculated at the correct grade and that bank holidays and closure days are also paid.

#### *Holiday pay and the comprehensive rate*

Check whether the comprehensive rate or multiplier for your hourly paid lecturers includes holiday pay. This was an area at issue between UCU and UCEA some years back in relation to post-92 universities and there remains a difference between our interpretations of the JNCHES guidance from 2004.

Our clear view is that holiday pay should be paid separately and on top of any multiplier added to the basic hourly rate to derive a comprehensive teaching rate.

There is limited scope for challenging this against any national agreements as it simply remains a difference between the two sides, but wherever branches are approaching the issue of holiday pay, it should be strenuously argued that holiday pay needs to be calculated separately from any comprehensive rate and the law requires it to be shown separately on pay slips.

If it is included, it effectively drags down the comprehensive rate and the value of any multiplier for preparation time. UCU should be arguing that these multipliers are too low in any case, let alone including holiday pay within them.

*What you need to do:*

1. Check that hourly paid lecturers' contracts and pay slips indicate the amount of holiday pay that is being paid.
2. Check that it is clear how that holiday has been derived and that it is the correct amount.

If you think something is wrong, contact your Regional / National Official to discuss it in detail.

The confusions and potential legal issues that can arise from the payment of rolled up holiday pay are also another good argument for employers to engage in negotiations with us, particularly over fractionalisation.

Make sure that you understand the position of your hourly paid lecturers and if you have any questions about the payment of holiday pay to hourly paid staff, inform and consult your regional / national official.

Further information on holiday pay for variable hours contracts can be found at:

<https://www.ucu.org.uk/circ/pdf/UCUBANAB35.pdf>

# Equal Pay Audits and the gender pay gap:

The Equal Pay Act has been in force for nearly fifty years now. Yet still the pay gap between male and female workers persists.

Casualised work intersects with, is reinforced by and in turn acts to reinforce the inequality in gender pay.

For example, a major cause of the gender pay gap is occupational segregation, by which women are clustered into subject areas which are seen to be less skilled or carry less esteem. This can be reflected in different hourly rates for part-time hourly paid staff doing work at the same grade.

Similarly, part-time work in itself is a major cause of the gender pay gap. Women are more likely to spend longer on part-time or insecure contracts and earn less than their full-time, permanent equivalents.

Colleges and Universities have new duties to measure and disclose the gender pay gap in their institution.

UCU argues that every college should conduct a full equal pay audit, jointly with UCU, as a first step to taking meaningful action to close their gender pay gap.

The impact of casualisation on women is a key reason to undertake such an audit and a full audit which includes looking at contractual status and occupational segregation effects will provide vital information for negotiators in tackling pay inequality among hourly paid staff and also in making arguments for action to place people on more secure and better contracts.

UCU has provided full guidance to branches on 'Tackling the Gender Pay Gap' which includes guidance on equal pay audits. You can access this on UCU's website here:

<https://www.ucu.org.uk/branchtools#genderpay>



# Eradicating ‘worker’ arrangements

## *Background:*

Many so-called ‘elite’ universities make extensive use of what they call ‘casual worker’, ‘bank worker’ or ‘temporary worker’ arrangements to engage large numbers of teaching staff.

The registration agreements for these workers are full of contractual ‘boilerplate’ – clauses intended to make it clear that no contract of employment exists for these staff. The intention is to create express contractual terms that designate their teachers as workers rather than employees, regardless of the reality of the working relationship. For example, the University of Birmingham’s casual worker ‘agreement’ states that it is not an employment contracts and it does not confer any employment rights and that the University is under no obligation to offer work.

The University of Sheffield’s registration agreement for casual work similarly makes it clear that it is not an employment contract and there is no obligation on the employer to provide work.

Thousands of people teaching regularly in our colleges and universities are employed as workers, their contractual relationships deliberately constructed to bear many of the attributes of self-employment without any of the benefits.

This is completely unacceptable. It means that staff, including for PhD students, may spend two or three years teaching but miss out on service related employment rights as a consequence at the start of their career.

Universities and colleges defend these arrangements citing their need for flexibility to cater to fluctuating student demand. Yet student demand, where it fluctuates, tends to do so on an annual basis. UCU’s view is that this level of fluctuation is easy to cater to using standard employment contracts and there is no excuse for universities to make use of worker arrangements on such a basis.

*Key objective:*

UCU branches should aim to negotiate for all 'casual workers' engaged in formal scheduled teaching to be transferred onto fractional employment contracts, equitable to terms and conditions as those enjoyed by other employees through assimilation to the National Pay Spine, matched to the National Role Profiles at the appropriate academic level.

## Negotiator's resource: 'Compare and contrast' - Employees and Workers

Employee	Main employee rights
<p>They are expected to attend work on a regular basis unless they are on annual leave, sick leave or on family related leave (e.g. maternity leave) which has been agreed with their employer</p> <p>They are required to work a minimum number of hours, whether fixed or variable, and you expect to be paid for the hours that you work</p> <p>A manager or supervisor is responsible for telling them what work they should do, and when and how to do their work. Some employees may be able to organise how they use their own working time and set some of their own objectives.</p> <p>The organisation deducts tax and national insurance from their wages</p> <p>They cannot send a substitute to do your work</p> <p>The organisation provides them with the equipment and tools they need to do their job</p> <p>They can use their employer's grievance procedure</p> <p>They are covered by their employer's disciplinary and redundancy procedures</p> <p>They have a written contract with the organisation which refers to them as an employee or states that it is a contract of employment.</p>	<p>Written statement of particulars (pay, hours of work, holidays, sick pay, notice periods and disciplinary and grievance procedures)</p> <p>Statutory minimum notice</p> <p>Protection from unfair dismissal (following a 2 year qualifying period)</p> <p>Statutory redundancy pay (following a 2 year qualifying period)</p> <p>Itemised pay statement</p> <p>Statutory maternity, adoption, paternity and shared parental leave (including to return to their job) after 6 months service.</p> <p>Right to request flexible working (after 6 month qualifying period)</p> <p>Unpaid parental leave (after a 1 year qualifying period)</p> <p>National Minimum Wage</p> <p>Holiday Pay</p> <p>Written statement of particulars (Agency Workers only, not 'bank' or 'casual' workers)</p> <p>Right to auto-enrolments into a pension scheme (provided they earn more than £10,000 pa)</p> <p>Right to statutory maternity leave and maternity pay (provided they earn more than £123 pw) .</p>

Now compare this with the employment rights enjoyed by a Worker...

Worker	Workers' rights
<p>Their employer has no obligation to offer work and they are not required to accept work if it is offered to them. This is often expressed as 'there is no obligation on your employer to offer you hours and you are under no obligation to accept them'.</p> <p>Any written contract they have with the organisation describes their working relationship as 'casual', 'as and when'. Work may be described as 'assignment' or 'engagement'.</p> <p>They are expected to do the work themselves, without providing a substitute</p> <p>The organisation deducts tax and national insurance from their wages</p> <p>The organisation provides them with the equipment and tools they need to do their job</p>	<p>National Minimum Wage</p> <p>Holiday Pay</p> <p>Written statement of particulars (Agency Workers only, not 'bank' or 'casual' workers)</p> <p>Right to auto-enrolments into a pension scheme (provided they earn more than £10,000 pa).</p> <p>Right to statutory maternity pay (provided they earn more than £123 pw) .</p>

# Negotiator's resource: Making the case for employee status

Case law has established a series of tests that help establish the boundaries of worker and employee status. These tests don't simply look at contractual terms but, importantly, at the reality of the work being done.

By matching these to the contracts and work being performed by casualised staff, negotiators can use these points to make the case for proper employment contracts:

A contract of employment will arise when three elements are in place:

- There must be an obligation to perform the work personally (you cannot send another person to do it for you);
- There must be mutuality of obligation between employer and employee (usually defined as an obligation to do any work offered to you and an obligation on the employer to pay for any work done);
- The worker must be sufficiently subject to the control of the person for whom they work.

The deciding factor in any determination of whether a person is in reality an employee (whatever their contract says) is the degree of control exercised over how and when tasks are performed.

Case law has established that control doesn't have to be day-to-day but the 'ultimate' ability of the employer to control the manner in which the work is carried out.

Other things factors to look at in determining control would be:

- Is the person subject to disciplinary and grievance procedures?
- Do they receive sick pay and holiday pay?
- Are they able to join the occupational pension scheme?
- Are there any limits on them working for other people?

## *Summary:*

When looking at the work performed by casualised staff, it is clear that in reality, the vast majority of people doing hourly paid work are working in ways that should make them employees, regardless of the worker contracts being used to engage them currently.

Hourly paid teaching staff for example, have their hours and their work allocated and timetabled to them and cannot choose when to do the work. They are subject to university policies and procedures, including disciplinary and grievance procedures.

In our view, in the overwhelming majority of cases, there is no excuse for employing casualised staff on anything other than an employment contract.

Furthermore, if they are working regular hours, our expectation would also be that these people should then be employed on a fractional contract. You can find full guidance on negotiating around fractional contracts on p. 34 of this booklet.

## Negotiator's resource: Postgraduates who teach:

In pre-92 universities and increasingly in some post-92 universities, much undergraduate teaching is done by postgraduates employed to teach.

The employment conditions and pay rates of postgraduate students has been an issue for many years and universities have moved successively from one form of poor treatment to another.

UCU research revealed that in the Russell Group, for example, the majority of postgraduates who teach are engaged as 'workers', meaning that they miss out on years in which they might accumulate employment rights. Pay for postgraduate students varies wildly and can be as low as £13 per hour.

Below you will find guidance which relates to issues specific to the employment of postgraduate students.

### *Payment for teaching through bursaries:*

Paying for teaching through bursaries has obvious financial benefits for the university:

- It detaches teaching pay from the national pay spine and its hourly rates
- It saves the need for employers to consider any obligation to auto-enrol postgraduates into a pension scheme
- It saves them from making National Insurance contributions.

Some universities mis-sell their bursaries as pegged to the value of Research Councils UK bursaries and then claim that the teaching remuneration is covered by the bursary.

UCU is clear that this is misleading as RCUK bursaries are valued without including teaching.

*"Research Council stipends are training awards and do not cover remuneration for duties which would reasonably be considered to constitute employment. Where students funded through Research Council Training Grants undertake demonstration or teaching, or other types of employment in an institution, they should be paid for this in addition to receiving the minimum Research Council Stipend."*

This is based on HMRC guidance which makes clear that stipends and studentships are non-taxable income because they are training grants and should be kept separate from paid employment in the form of teaching.

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UCU believes that all universities should be following this position.

Any fee waiver should also be counted outside the value of the stipend as RCUK stipends do not cover fees.

### *Compulsory teaching:*

Some universities say that teaching is a compulsory part of bursaries. UCU's view is that teaching should not be compulsory and we are supported by the Quality Assurance Agency's Quality Code, which makes clear that no high quality provider should be offering compulsory teaching. ('Higher education providers may offer research students non-compulsory teaching opportunities')

<http://www.qaa.ac.uk/assuring-standards-and-quality/the-quality-code>

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Similarly, the Research Councils make this a condition of their awards: "Students may undertake teaching or demonstrating work when this is compatible with their training and provided their supervisors approve...[but] it must not be compulsory".

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This does not necessarily mean that universities are breaching any regulations, particularly if the bursaries are ones paid by the university. But universities who do make teaching compulsory are clearly acting in a way that is frowned upon by research councils and the QAA alike.

### *Pay and grading:*

In pre-92 universities, no teaching should be performed at anything below grade 6 (Academic Level 1). Postgraduate teaching roles should be matched against at least, the Academic Level 1 role profile in the Teaching and Scholarship Job Family, which is often described as a 'teaching assistant' role.

In post-92 universities there is no approved role profile for post-92 universities at Academic Level 1 in the Teaching and Research or Teaching and Scholarship job family.

### *No use of 'worker' arrangements*

Many Russell Group universities make extensive use of what they call 'casual worker' or 'temporary worker' arrangements to engage large numbers of teaching staff. The registration agreements for these workers are full of contractual 'boilerplate' – clauses intended to make it clear that no contract of employment exists for these staff. The intention is to create express contractual terms that designate their teachers as workers rather than employees, regardless of the reality of the working relationship.



This has the effect of ensuring that for the first two years of their working lives, many thousands of PhD students teaching in our universities accumulate no service related employment rights, often unknown to them.

These 'casual workers' have a contractual relationship deliberately constructed to bear many of the attributes of self-employment without any of the benefits. Universities and colleges defend these arrangements citing their need for flexibility to cater to fluctuating student demand. Yet student demand, where it fluctuates, tends to do so on an annual basis. UCU's view is that this level of fluctuation is easy to cater to using standard employment contracts and there is no excuse for universities to make use of worker arrangements on such a basis.

Branches should use the negotiator's resources around getting the rate for the job and ending the use of 'worker' arrangements to negotiate improvements for postgraduates.

Our PGR manifesto ([https://www.ucu.org.uk/media/11623/Postgraduate-researchers-as-staff-manifesto/pdf/PGRs\\_as\\_staff\\_manifesto\\_Dec22.pdf](https://www.ucu.org.uk/media/11623/Postgraduate-researchers-as-staff-manifesto/pdf/PGRs_as_staff_manifesto_Dec22.pdf)) also sets out the principles we expect we PGRs who undertake teaching work.

# ‘Fractionalisation’

It is a key UCU aim to transfer as many hourly paid lecturers onto established part-time contracts where they are paid a fraction of a salary – ‘fractional’ contracts.

Here you will find advice on key issues around achieving this as well as specific advice for negotiators on calculating fractional contracts properly.

Negotiators may find that employers are willing to engage in discussions around greater access to fractional contracts but seek to restrict access to those above a certain threshold of hours or to give heads of department discretion in who gets access.

## Key objectives

1. To ensure that as many people as possible get the genuine option of moving to a fractional contract.
2. To ensure that the contracts are fractional in every respect, paid the correct rate for the job, contain no bars to progression and are generally no less favourable to part-time staff.

## Issues and flashpoints:

### *Devolved budgeting*

One of the main issues confronting any branch attempting to negotiate ‘fractionalisation’ is the devolved budgeting and management structures operated by universities. University HR departments may say they are willing to negotiate a policy that theoretically covers all university staff but schools, faculties and departments will operate in the context of devolved budgets that will practically cut across our negotiations in several ways.

Senior academic managers, conscious of the need to keep their areas in surplus will argue against anything likely to increase their local staff costs or will argue for the insertion of clauses that water down proposals or give them more discretion in selecting who to ‘fractionalise’.

This is why it is so important to win commitment from senior university managers as part of the agreement, that the University will fund a fractionalisation process to ensure that departments or areas where there are significant numbers of staff who may be fractionalised will be financially covered to do this. Otherwise the risk is that what you agree with HR will be unpicked by Schools, Faculties and Departments.

### *Teaching only contracts*

Many universities are seeking to re-engineer their academic workforces to meet the new requirements of the Teaching Excellence Framework and squeeze more teaching

out of already hard-pressed staff. Universities may view fractionalisation negotiations as an opportunity to move people who are already paid only for the teaching they deliver onto inferior teaching only contracts.

UCU is not opposed to the existence of teaching focused contracts but in English post-92 universities these have to be built on the framework of the National Contract's limits on teaching hours.

Whatever the sub-sector, teaching focused contracts need to be built on the Teaching and Scholarship role profiles. Even then, many teaching focused contracts are poorly constructed and do not allow time for scholarly activity. UCU has produced bespoke guidance for branches negotiating around teaching focused contracts so if this forms part of your negotiations, you should refer to this guidance, which is titled 'Bargaining for better teaching jobs in higher education' here:

[https://www.ucu.org.uk/media/7379/Bargaining-for-better-teaching-jobs-in-higher-education-a-UCU-bargaining-guide-for-branches-Jul-15/pdf/ucu\\_bargainingforbetterteachingjobsinhe\\_jul15.pdf](https://www.ucu.org.uk/media/7379/Bargaining-for-better-teaching-jobs-in-higher-education-a-UCU-bargaining-guide-for-branches-Jul-15/pdf/ucu_bargainingforbetterteachingjobsinhe_jul15.pdf)

# Negotiator's resource: Key elements of a good fractionalisation negotiations and agreements

## 1. *Agreement on the provision of data*

Effective negotiations on fractionalisation are based on a good understanding of the data around the employment of hourly paid staff. That's why it's vital to insist on getting data that shows *the number of hours worked by each hourly paid worker over the last two or three years*.

Some employers will claim this is a big job but most should be able to collate it from anonymised payroll data. If they can't they have some quite serious questions to answer about their HR practices.

Having and analysing this information is hugely important because it enables branch negotiators to set their claim for fractionalisation against a real understanding of how many people are providing regular hours over a given period.

For example, this data often shows that the same individuals are providing around 1 day a week (0.2 FTE) for two or three years, enabling you to make an argument that these people could be on fractional contracts.

It also helps to show what level of fractionalisation will make a substantial difference to hourly paid staff as a whole. For example at some HEIs large numbers of people will be working at 0.2 FTE and an agreement around this will make a substantial difference. However in other HEIs, far larger numbers may be delivering 0.1 FTE but doing so over a number of years, in which case there is a case for aiming for a lower FTE threshold.

## 2. *Agreement on investment and modelling of costs*

It's important to get agreement on specific commitments to fund investment in transferring staff onto more secure contracts.

This is important because policies that make an 'in-principle' case for fractionalising staff on hourly paid contracts or transferring staff onto permanent contracts can be defeated in practice by faculty or department-level budgeting policies enforced from a higher level.

As we saw above, the tensions between HR and departments which arise from devolved budgeting and management frequently undermine fractionalisation policies. This can be exposed and mitigated by ensuring that there is good data to start with against which to hold departments to account and that there is recognition that fractionalisation cannot be cost free for the HEI or discretionary for the department.

Similarly it's important to get agreement that the employer will provide modelling of the costs of proposals for fractionalisation. This is vital not only to inform your negotiations but also because it ensures that as part of any agreement there is an agreed

expectation that a given number of people will be offered fractional contracts.

### *3. Agreement on a mechanism for transfer to a fractional contract*

Our key objective is to ensure that the offer of a fractional contract is made to many people as possible, with as few hurdles for them to jump as possible.

For example, staff should be offered a fractional contract as opposed to having to positively opt in. This will adequately address the issue of people who may not wish a fractional contract without agreeing wording that places the onus on casualised staff to make the case for transferring themselves.

Some managements will attempt to introduce an 'interview' with the relevant Head of Department to assess the suitability for transfer. This also should be resisted. At the most it should be a developmental process aimed at assisting hourly paid lecturers to transition into their new role.

If a casualised teacher is doing the job already, they should be entitled to be offered the work. But this does make it important that there is absolute clarity about what role hourly paid lecturers are to transfer onto.

### *4. Agreeing a threshold for access*

One of the biggest points for discussion in any fractionalisation negotiation often concerns the number of hours people have to work to qualify for a fractional contract.

Because fractional contracts are more expensive than hourly paid ones, employers have an interest in restricting access and one of the arguments they make is that people who teach below say 0.2 FTE or the equivalent of one day a week should not qualify for an hourly paid contract. Many employers have attempted to fix this bar higher at 0.4 or 0.5FTE.

Negotiators should aim to establish the threshold for access to fractional contracts as low as possible and certainly anything higher than 0.2 FTE is likely to raise questions over the ratification of agreements.

Information is vital. When negotiating over thresholds it's crucial to ensure that you know how many hours are actually being worked by HPLs. This is why negotiating around the best possible information is so important *before* agreeing any thresholds.

### *5. Agreement on the appropriate role*

As noted above, HEIs are attempting to remodel their workforces and many see the introduction of poorly constructed teaching focused roles as a cheap option to the Teaching Excellence Framework. Others are also attempting to ensure that all their teachers have PhDs and teaching qualifications. There is the potential for these to function as practical barriers to hourly paid staff progressing to fractional contracts.

This makes it vital to ensure that the right role is being offered and that this offer is working in a non-discriminatory fashion.

The role that HPLs transfer onto must be either a full lecturer contract or a properly constructed Teaching and Scholarship role, based on the National Role profiles and containing time for scholarly activity. UCU has produced further guidance on negotiating around Teaching Focused contracts and branch officers should consult this.

Where HPLs are being asked to transfer to a full lecturer role and perform the full range of a lecturer's duties, they should be supported to make this transition.

Any requirement additional conditions of access to fractional contracts, such as for example, the requirement to have a PhD, HEA fellowship, or any other conditions for access to fractional contracts must not be applied in a way that would represent discrimination against part-time workers.

In the case of PhDs for example, which are becoming a common requirement for higher education teachers, HEIs who wish this to be a requirement going forward should fund the training themselves and support their staff to achieve this.

Rather than PhDs or other qualifications being a barrier to fractionalisation, hourly paid staff should be offered fractionalisation with access to the same support as other staff who need to gain such qualifications.

# Negotiator's resource: Calculating a fair fractional post

## Factors for calculating a fair fraction:

Once the main principles and mechanisms for transferring hourly paid staff have been agreed, you need to agree on the way in which a fractional contract is calculated.

To calculate a fractional contract/pro rata salary, you need to establish:

- 1 the correct grade and pay point within the grade for the comparison
- 2 the measure by which a full-time equivalent post is determined in order to compare the hours worked
- 3 the number of hours actually worked by the members of staff.

### *i) Grade*

The correct grade for any fractional contract should be established by role analysis and using the national academic role profiles. The National Academic role profiles were the product of lengthy discussion and negotiation and they offer a clear framework for the development of academic roles. Make sure you are familiar with them. You can find the National Academic Role Profiles here:

[www.ucu.org.uk/index.cfm?articleid=1969#profiles](http://www.ucu.org.uk/index.cfm?articleid=1969#profiles)

Grading must be established with reference to the duties actually carried out and not just those in the current job title.

It's important to ensure that posts are fractional in every respect. That means that the fractional contract must include pro-rata access to incremental progression and pro-rata access to all other terms and conditions.

### *ii) Full-time equivalent comparator:*

For a post-92 university, a full-time equivalent post is most simply measured with reference to the national contract which establishes a maximum of 550 formal teaching hours per year and 18 hours per week.

Some pre-92 universities have workload agreements that measure formal teaching hours, in which case a full-time equivalent comparator will be determined in the same way.

In those pre-92 universities and other institutions where formal teaching hours are not used to measure full-time equivalence, we have to work out fractions in a different way. We can do this by calculating the number of hours worked by a comparable employee on a full-time contract. This would be calculated as follows: assuming a full time

working week of 37 hours, six weeks of annual leave (30 days) three working weeks of public holidays and closure days:

$$52 - (6+3) = 43 \text{ working weeks}$$

$$43 \times 37 \text{ hours} = 1591 \text{ hours a year}$$

*iii) Number of hours worked:*

Where the FTE relates to teaching hours only (in the post-92 sector and pre-92 institutions with workload agreements) then the number of hours for comparison is the number of teaching hours undertaken by the hourly-paid member of staff.

Where the FTE relates to all working hours, then the number of hours worked by the hourly-paid member of staff must take account of all hours worked - not just contact teaching hours. The number of teaching hours is not a reflection of the number of hours actually worked but is merely an indication of the contracted contact teaching time. Full account needs to be taken of all the activities undertaken by hourly-paid teaching staff to support their teaching activity.

These can be very diverse, including for example, line management and course leadership. In calculating the hours of work done in support of teaching activity, the contract should include time for:

- preparation
- course design
- marking
- student support including pastoral care
- supervision
- administration
- compliance with institutional procedures
- communication with colleagues and students
- attendances at meetings; and
- self-managed research and scholarly activity.

For many hourly-paid staff, agreement on the actual hours worked can easily be reached between the hourly-paid member of staff and their line manager.

For example (figures for illustrative purposes only):

- contracted teaching hours = 10 pw for 30 weeks (in 2 hour blocks) = 300
- preparation of course and materials before start of course = 50
- preparation before each class = 1 hour = 150
- marking = 2 hours pw for 30 weeks = 60
- student support = 1.5 hours pw for 30 weeks = 45



- administration = 1.5 hours pw for 30 weeks = 45
- meetings = 1 hour per fortnight for 30 weeks = 15
- own directed research and scholarly activity = 4 weeks per annum = 140
- total hours worked per annum = 805

As this process will still involve input from individual employees it is important that individual members feel supported by UCU and do not feel under pressure to agree to a pro-rata contract that fails to recognise the working hours necessary to fulfil their contractual teaching obligations, or which removes other responsibilities from them against their wishes.

In some circumstances it may be beneficial for the UCU to negotiate with the employer on a formulaic approach to work out the average hours worked per annum. Where this is done the following principles should be met:

- no detriment
- pay for all hours worked
- equal pay.

There are a number of ways in which this could be approached but one method would be to add a factor to each teaching hour to cover the additional activities and calculate accordingly.

The factor added to each teaching hour should be no less than 1.5 hours and there is a good case for increasing this to take account of the actual time required to deliver a teaching hour.

Adding 1.5 hours to every teaching hours means that the number of teaching hours must be multiplied by a factor of 2.5 to get the total number of hours worked (e.g, 1 teaching hour = 2.5 hours worked in total, 2 teaching hours = 5 hours worked in total, 100 teaching hours = 250 hours worked in total).

It is important to remember that unless pay is provided for all hours worked then equal pay will be undermined. It is not acceptable for employers to concede that hourly-paid staff are entitled to higher pay but attempt to restrict the number of hours for which payment is made or to use a factor of less than 2.5 in calculating average hours in an attempt to reduce costs.

## Doing the calculation:

Once the FTE and actual number of hours worked have been determined then the calculation of the fractional contract is fairly straightforward.

In the post-92 sector and pre-92 sector where there is a workload agreement then the fractional contract is calculated as follows:

Number of teaching hours undertaken per annum  $\div$  number of teaching hours specified

in workload agreement

For example, an hourly-paid lecturer in the post-92 sector teaching 300 hours per annum:

$$300 \div 550 = 0.54 \text{ of a full time post.}$$

So, salary would be  $0.54 \times$  full-time salary

Where full time equivalent is calculated by reference to all available working hours and hours worked is by reference to all the hours worked to deliver teaching commitment then the fractional contract is calculated as follows:

Number of actual hours worked per annum  $\div$  number of hours worked by full-time staff per annum

In the examples above, the number of actual hours to deliver 300 teaching hours was calculated as 805 hours per annum. The number of hours worked by full-time staff was calculated as 1591 hours per annum. So the fractional contract in this case would be:

$$805 \div 1591 = 0.51 \text{ of a full-time post}$$

So, salary would be  $0.51 \times$  full-time salary

Where full time equivalent is calculated by reference to all available working hours but hours worked are calculated by adding at least 1.5 hours to each teaching hour then the fractional contract is calculated as follows:

number of teaching hours per annum  $\times$  (at least) 2.5  $\div$  number of hours worked by full-time staff per annum

For someone contracted for 300 teaching hours per annum where the number of hours worked by full-time staff was calculated as 1591 hours per annum the fractional contract would be:

$$(300 \times 2.5) \div 1591 = 750 \div 1591 = 0.47 \text{ of a full-time post}$$

So salary would be  $0.47 \times$  full-time salary

Conversion to fractional/pro-rata contracts should not lead to any cuts in pay for staff moving from hourly-paid contracts. In fact, if full recognition is given to the required working time (as it should be) then it is likely that overall income will increase. This is because it is our belief that at present large numbers of hourly-paid teaching/lecturing staff are inadequately recompensed for all the work that they undertake and the hours that they spend working in support of their teaching activity. Insistence by the employer that conversion is at zero cost is not acceptable if staff are currently not being paid for all the hours they actually work or are being paid a rate of pay below comparable salaried staff.

Whatever approach is taken it is important that hourly-paid members and potential members are kept informed and are able to input into the process.

# Variable hours contracts

Employers tend to argue against the use of fractional contracts on the grounds that they need flexibility to deal with fluctuating student demand.

UCU branches should attempt to get agreement on moving as many zero-hours or hourly-paid staff as possible onto fractional contracts.

However, one way of negotiating around the need for flexibility is to seek agreement on the use of variable-hours contracts with a guaranteed minimum.

Variable hours contracts need to be used with extreme care. All too often, what employers call variable hours contracts are in fact zero hours contracts by another name. But used properly, they can provide greater stability of employment and predictability of income for hourly paid lecturers.

## What is an acceptable variable hours contract?

Some employers use the term 'variable hours contract' to refer to things that are in reality zero hours contracts. Here are two examples of clauses that

Typical examples of contracts that employers have referred to as 'variable hours' contracts but which are in fact zero hours contracts might include clauses

- "The hours you work may vary according to the demand for the contracted activities you carry out. This will enable the University to respond to fluctuations in demand. You agree that there may be occasions where no contractual activities are required of you by the University, in which case your hours will be reduced to zero".
- "You are not obliged to undertake any work offered to you and the University is not obliged to offer you work."

UCU branches be alert to the wording of any proposed variable hours contract. If there is any clause which allows variation of hours down to zero without the option of a redundancy payment, these should be rejected.

An acceptable variable hours contract is one which carries with it a commitment to provide a guaranteed minimum hours on an ongoing basis. These are sometimes expressed as 'Core hours' or 'guaranteed hours'.

The guaranteed or core element of the hours needs to be a reasonable minimum. Some employers have attempted to avoid being accused of using zero hours contracts by offering staff variable hours contracts with a very low guaranteed minimum – sometimes a handful of hours.

Our key negotiating objectives are:

- to ensure that variable-hours contracts have a reasonable guaranteed minimum hours of work per year and the right to review
- to ensure that there are controls on an employer's ability to change these hours
- to ensure there is a path for staff on variable-hours contracts to move to fractionalised contracts.

# Negotiator's resource: Safeguards for the use of variable-hours contracts

1. The terms and conditions in variable-hours contracts should be the same as for comparable permanent full-time or fractional staff, except that there is some flexibility in the hours of work built into the contract.
2. Variable-hours contracts should specify a reasonable guaranteed minimum number of hours work per year.
3. There should be agreement on a threshold (expressed as a percentage of a full-time equivalent contract) above which staff could move onto permanent, non-variable fractional contracts. This percentage should be as low as possible to maximise the opportunity for staff to move to permanent, pro-rata (non-variable) contracts.
4. The guaranteed minimum should be based on a realistic expectation of the workload. This could be assessed by looking back over a number of years to calculate the average hours and use that as the minimum. The minimum should not be set so low as to be, in effect, a zero-hours contract.
5. The ratio of the guaranteed minimum to the flexible hours will need to be negotiated. The more flexibility that employers have to increase the flexible hours before triggering the right of the member of staff to have their minimum hours increased, the more likely they are to try and set the minimum hours at an unrealistically low level. The objective, from our perspective, is to get the guaranteed minimum hours set as high as possible.
6. Any agreement should ensure that part-time and hourly-paid staff on variable-hours contracts are entitled to a review of their guaranteed minimum contracted hours. Such a review should be at least annual but should be earlier in certain circumstances.
7. If total average hours actually worked are in excess of the original minimum hours, staff should have the right to have their minimum hours increased accordingly.
8. No agreement on variable-hours should allow for the employer to reduce the member of staff's working hours to less than the guaranteed minimum hours without triggering redundancy procedures and payments.
9. Staff should have the opportunity to contest any reduction of non-core hours and opt for a redundancy payment for those hours instead.



# Limiting the use of fixed-term contracts

It is UCU policy to seek, and campaign for, a significant reduction in the use of fixed-term contracts in higher education. For hourly-paid staff there is also a commitment to seek conversion to fractional (pro-rata) or full-time posts as appropriate. In the post-92 sector conversion should be to the national contract and in the pre-92 sector conversion should be to contracts with the same terms and conditions as salaried academic and related staff.

One method to help achieve this objective is to negotiate on the introduction of a Fixed-Term Contract Policy. It will not always be appropriate to seek to negotiate a policy and advice should be sought from your regional / national office before doing so. However, there will be situations where the agreement of a model policy will lead to many staff being transferred to permanent contracts and such policies may contribute to a change in culture away from the use of fixed-term contracts in higher education.

The Fixed Term Employee (Prevention of Less Favourable Treatment) Regulations 2002 (the Regulations) came into force in October 2002. The Regulations:

- Prevent less favourable treatment of fixed-term staff and
- Restrict the successive use of fixed-term contracts unless less favourable treatment or the successive use of fixed-term contracts can be justified on objective grounds.

The Regulations can be viewed at <http://www.opsi.gov.uk/si/si2002/20022034.html>

## Developing a Policy

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The starting point in developing a local policy should be to get as many fixed-term staff transferred to permanent contracts as possible and to secure a reduction of their use in the future. Local priorities can also be fed into the process.

The development of a policy is a first step in tackling the issue of the use of fixed-term contracts in higher education but a massive culture shift will be required to tackle the issue effectively. It is therefore important that any policy is endorsed by the appropriate university bodies and has buy-in at all levels. It is also important that the policy is binding on all departments; guidance alone has been found to be ineffective in tackling the issue. Equally important is that any agreed policy is communicated to all staff and that managers are well briefed in its content.

It is important that any policy that has been agreed by the UCU is supported by its members, especially those on fixed-term contracts themselves. In relation to the successive use of fixed-term contracts, the Regulations provide for collective or workplace agreements to override the statutory provisions so it is very important that any agreements made do not offer less protection to members than they are afforded by the Regulations.



Advice from our legal department in the light of the Ball v Aberdeen case is that including specific examples of potentially objectively justified use, of or continuation, of fixed term contracts – in either national or local agreements – is unhelpful and potentially misleading. In every case the employer should be required to show that it has a real need to employ the employee on a fixed term contract, and that the benefits to the employer in doing so outweigh the detriment to the employee caused by remaining employed on a fixed term.

We are seeking agreements that make it clear that fixed-term contracts should only be used in the circumstances described above. In addition, we are seeking a commitment that fixed-term contracts will not be used for a period beyond four years.

Branches are encouraged to negotiate for the introduction of a policy that:

- includes commitments from the university to reduce the use of fixed-term contracts
- and to effectively manage any remaining fixed-term contracts;
- specifies that fixed-term contracts will only be used for transparent and objective reasons where the employer can demonstrate there is a genuine fixed-term need;
- provides for transfer to permanent contracts after (at most) 4 years' service;
- does NOT give specific examples of when a fixed-term contract can be used;
- identifies any particular issues and commitments relating to specific groups of staff;
- sets down procedures for the management of fixed-term contracts;
- includes a commitment to joint monitoring and review.

# Negotiators' Resource: The UCU Model Policy – Commentary

## *1. Introduction*

It is important to get commitment to continuity of employment within the policy itself.

The requirement to treat fixed-term staff no less favourably (unless such treatment is objectively justified) and to inform fixed-term staff of permanent vacancies are both legal requirements under the Regulations.

The requirement to all transfer staff to permanent contracts after 4 years or before if appropriate goes beyond the legal requirements in the Regulations but UCU believe that the majority of staff would be entitled to a permanent contract under the Regulations after 4 years and that it would be very difficult to objectively justify the continued use of fixed-term contracts after 4 years. Our aim should be to get all such staff onto permanent contracts.

It is important that any agreed policy applies to all staff.

It is also important to build a review date into any agreed policy

## *2. Purpose*

It is useful that the purpose of the policy is agreed up front. It should not be merely about complying with the legislation – there needs to be a commitment to really start to tackle the problem of the endemic use of fixed-term contracts. An annual audit, including equalities data ensures that the policy remains a working document.

## *3. Reduction in the use of fixed-term contracts*

Again, commitment to the reduction in the use of fixed-term contracts is stated and a commitment to using permanent contracts as the normal form of employment. This will represent a significant shift in employment practices in most universities.

It is also useful to make clear within the policy that the university, as the employer, takes responsibility for implementation of the policy.

## *4. Transfer of staff to permanent contracts*

The Regulations state that those members of staff on at least their second contract, or who have had their contract renewed, and who have at least 4 years' service, can regard their posts as permanent – unless the employer can objectively justify the use of a fixed-term contract.

The UCU model policy builds on the spirit of the Regulations and requires that:

- All staff with more than 4 years' service be placed on a permanent contract
- All staff with less than 4 years' service be placed on a permanent contract unless the use of a fixed-term contract can be linked to a genuine fixed-term need
- Hourly-paid staff be transferred to pro-rata / full-time permanent contracts other than in exceptional circumstances
- The model policy also includes commitments in relation to staff acquiring 4 years' service and compulsory redundancies. These are both areas around which members have raised concerns and it is therefore important to secure commitments of this nature to allay any fears that fixed-term staff may have about the effect of any agreed policy.

#### *5. The circumstances in which fixed-term contracts may be considered*

Following legal advice, we have moved away from advising branches / LAs to agree to specified circumstances in which fixed-term contracts may be considered. Any policy should include a statement to the effect of:

"Fixed-term contracts should only be used on those occasions where the employer can demonstrate a real need, i.e. that the employer can identify facts evidencing an objective which can only be met by the use of a fixed term. Where an objective is identified but can be achieved by alternative means which do not involve the use of a fixed term, the employer will not have established a real need."

Even where a real need is established the use of a fixed term contract may not be justified if, after consideration of all the facts, it is apparent that the detriment caused to the employee by remaining on a fixed term contract outweighs the expected benefits accruing to the employer by the use of a fixed term contract. It follows that on every occasion the employer must adopt an individual approach to the issue rather than apply a blanket rule. Whilst it may be appropriate to offer fixed-term contracts for short periods of time with an aggregate period of less than 4 years in the circumstances outline above, fixed-term contracts should not be used for a period beyond 4 years of continuous employment.

#### *6. Management of fixed-term contracts*

In recognising that there will be situations in which the use of a fixed-term contract will be objectively justified (for service of less than 4 years) it is important to get commitments on the management and treatment of staff on fixed-term contracts.

Key to this is a commitment to not treat fixed-term staff less favourably than permanent employees. It is useful to give example of this within the policy to make it clear that the less favourable treatment provisions apply to all terms and conditions of employment – contractual and otherwise. E.g. pay, access to library facilities.

Under the Regulations fixed-term staff have the right to request a written statement of reasons for less-favourable treatment which must be supplied within 21 days of the request. They also have the right, if they consider they are entitled to regard their post as permanent, to request a written statement confirming that the contract is no longer fixed-term. Within 21 days of that request the employer must either provide such a statement or provide a statement giving the reasons why the contract remains fixed-term.

## *7. Particular groups of Staff*

Any policy agreed should apply to all staff but is worth noting some of the particular issues that are likely to arise for particular groups of staff. The JNCHES guidance identifies contract research staff and hourly-paid staff as groups for which the Regulations will have a significant impact.

### *7.1 Contract research staff*

It is important to get some level of commitment to breaking the link between a particular funding stream (e.g. a research project grant) and the employment of an individual researcher. Commitment to investing in the research infrastructure and looking at research funding as a whole, rather than on a project by project basis, can go some way to changing the culture of short term-ism within HE research.

### *7.2 Fixed-term hourly-paid staff*

In addition to seeking permanence for hourly-paid staff in the same way as other staff, we should be negotiating for the transfer of hourly-paid staff to pro-rata / full-time contracts as appropriate. There may be limited circumstances in which an hourly-paid contract is appropriate but for most staff a part-time or full time contract (depending on hours worked) is most appropriate and is more easily demonstrable in meeting equal pay considerations.

## *8. Ending a fixed-term contract*

It is important, if we recognise that some fixed-term contracts will remain in use, that procedures are built into the policy that deal with the ending of a fixed-term contract. The aim of these provisions is to move away from the current expectation that the expiration of a fixed-term contract will result in an automatic dismissal – in most cases a compulsory redundancy. The provisions build on the JNCHES guidance and are aimed at avoiding compulsory redundancies.

The example of a redeployment policy requires active intervention from the employer to identify suitable alternative employment – it is not sufficient to leave it to the affected member of staff to seek suitable vacancies and competitively apply for them.

If a fixed-term member of staff is made redundant this should be on the same basis as

comparable permanent members of staff – including levels of redundancy pay, and the procedure should be no less favourable.

Redundancy waiver clauses signed after October 2002 are void but we should seek a commitment from the employer that they will not seek to enforce waiver clauses signed before that date.

# Negotiators' Resource: Model fixed-term contact policy

This policy has been agreed between X University and XUCU and will commence on (insert date)

## 1. *Introduction*

The University is committed to ensuring continuity of employment for its staff and to use fixed-term contracts only for transparent and objective reasons where there is a genuine fixed-term need.

The University will avoid the successive use of fixed-term contracts and will transfer staff to permanent contracts once they have completed four years' service, or earlier if appropriate.

Where fixed-term contracts are used the University will ensure that staff are treated no less favourably than permanent staff and are informed of permanent vacancies.

The University will not take any action that it is contrary to the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002.

This policy will apply to the use and management of fixed-term contracts for academic (including research) and academic related staff across all departments.

This policy will be effective from (insert date) and will be jointly reviewed every two years or whenever there is a change in relevant legislation.

## 2. *Purpose*

The aim of this policy is to

- reduce the use of fixed-term contracts within the University
- provide for the transfer of fixed-term staff to permanent contracts
- specify how fixed-term contracts will be managed
- identify specific issues in relation to contract research staff and hourly-paid staff
- specify the action required at the termination of a fixed-term contract.

As part of this policy, the University will carry out an annual audit of the use of fixed-term contracts across the University which will include equality data and will share the results with the UCU. If the use of fixed-term contracts does not significantly reduce or there are equality implications the university will take action, agreed with the UCU, to address the situation.

## 3. *Reduction in the use of fixed-term contracts*

The University is committed to a significant reduction in the existing numbers of fixed-term contracts and to limiting their future use.

In future, permanent contracts will be the normal form of employment for all staff and fixed-term contracts will only be used when there are transparent and objective reasons where there is a genuine fixed-term need. This test for whether there is a genuine fixed-term need should be applied in each and every case. The University is the employer and therefore overall responsibility for the management of fixed-term contracts is held centrally. Decisions on the use of fixed-term contracts should not be made solely by Heads of Departments or line managers but must be referred to personnel / human resources to ensure that they are in line with University policy and in accordance with the fixed-term employee regulations.

The University recognises that this will represent a significant shift from current practices and will ensure that this policy is brought to the attention of all managers and staff and is well publicised.

The University will also take steps to monitor the implementation of the policy centrally and will take appropriate action where it appears that the policy is not being followed within departments.

#### *4. Transfer of staff to permanent contracts*

All staff on fixed-term contracts will be transferred to permanent contracts immediately if they have at least four years' service or when they have completed 4 years' service.

All fixed-term staff with less than 4 years' service will be transferred to permanent contracts by (insert date) unless the continued use of the fixed-term contract can be demonstrated to be linked to a genuine fixed-term need.

Hourly-paid staff should also be transferred to pro-rata or full-time contracts as appropriate other than in exceptional circumstances (see 7.2).

In pursuing this policy, the University gives its commitment that the acquiring of 4 years' service will not be regarded as a legitimate reason for the expiry of a fixed-term contract.

The University gives a commitment to no compulsory redundancies as a direct result of this policy.

#### *5. The circumstances in which fixed-term contracts may be considered*

Fixed-term contracts should only be used on those occasions where the employer can demonstrate a real business need, i.e. that the employer can identify facts evidencing a business objective which can only be met by the use of a fixed term. Where a business objective is identified but can be achieved by alternative means which do not involve the use of a fixed term, the employer will not have established a real business need.

Even where a real business need is established the use of a fixed term contract may not be justified if, after consideration of all the facts, it is apparent that the detriment

caused to the employee by remaining on a fixed term contract outweighs the expected benefits accruing to the employer by the use of a fixed term contract. It follows that on every occasion the employer must adopt an individual approach to the issue rather than apply a blanket rule.

Whilst it may be appropriate to offer fixed-term contracts for short periods of time with an aggregate period of less than 4 years, fixed-term contracts should not be used for a period beyond 4 years of continuous employment.

## *6. Management of fixed-term contracts*

Where staff are placed on a fixed-term contract in accordance with paragraph 5 they shall be treated no less favourably than comparable staff on permanent contracts.

In particular, fixed-term staff will:

- Have equivalent terms and conditions of employment to colleagues on comparable permanent contracts including pay, absence provisions, pensions;
- Be provided with a suitable working environment;
- Have the same opportunity as other staff to access services to develop their career such as staff development, training, appraisal and careers advice;
- Be provided with information on, and the opportunity to apply for, permanent positions in the university;
- Be able to access university facilities such as libraries and intranet services;
- Have the right to participate in university governance and committees;
- Have their contracts regularly reviewed to consider whether the continued use of their fixed-term contract remains justifiable on objective grounds as set out in paragraph 5;
- On request, be provided with a written statement within 21 days explaining any differences in their employment arrangements from those of comparable permanent employees on a 'term by term' basis;
- After 4 years' service be provided with confirmation that the post is now permanent;
- On request, at any time, be provided with the objective justification for the post to be on a fixed-term basis.

## *7. Particular Groups of Staff*

### *7.1 Contract Research Staff (CRS)*

The University recognises that the use of fixed-term contracts within research for the employment of CRS is widespread. This policy applies to CRS as it applies to other



staff groups and the commitment to the use of permanent contracts as the normal form of employment extends to research staff.

Research staff will only be placed on a fixed-term contract if the use of such a contract is in accordance with paragraph 5.

The University acknowledges that this represents a major overhaul of the way in which research staff are employed with a significant transfer to, and future use of, permanent contracts. CRS will no longer be appropriate terminology for groups of research staff who should be referred to by reference to their job title (e.g. level 2 researchers).

The University recognises that a level of research funding is provided for investment in the research staffing infrastructure including investment that will allow continuity of employment between externally funded research projects.

Examples could include the use of bridging funds, retraining budgets, the establishment of pools of researchers or a redeployment database.

In this way the University will retain high quality, experienced staff and employees will maintain their continuity of employment.

The University also re-iterates its commitment to the active management of research careers and the Concordat to Support the Career Development of Researchers.

#### *7.2 Fixed-term hourly-paid staff*

The University also recognises that hourly-paid staff also form a large and distinctive group particularly affected by the use of fixed-term contracts.

The University will transfer hourly-paid staff to permanent contracts in accordance with paragraph 4 of this policy.

The University will also undertake to transfer hourly-paid staff to pro-rata or full time contracts as appropriate other than in exceptional circumstances that have been agreed with the UCU.

The transfer to pro-rata contracts will meet equal pay considerations with staff being transferred to a salary point on the appropriate grade.

The method of calculation of pro-rata contracts will be by reference to the national contract (or to an agreed lower workload agreement) in post-92 institutions and subject to agreement with the UCU in pre-92 institutions.

#### *8. Ending of a fixed-term contract*

The University will take all necessary and appropriate steps to avoid compulsory redundancies of both permanent and fixed-term staff. It will also meet its obligations in relation to staff facing redundancy during any redundancy protection period.

Up to four months before the expiry of a fixed-term contract, all alternative options should be considered e.g. alternative funding arrangements, renewal, use of bridging funds, retraining and redeployment.

Up to three months before the expiry date, consultation should take place with the postholder on the prospects of alternative options. The postholder may be accompanied by a trade union representative at any discussions about his/her post.

At the same time, the University will consult with the recognised trade unions about any potential redundancies.

In the first instance consideration should be given to transferring the employee to a permanent contract if the work is on-going, extending the fixed-term contract (in accordance with paragraph 5), providing alternative work or funds for a temporary period (for example between grants) or slotting the employee into a suitable vacancy (either on a permanent or a fixed-term contract in accordance with paragraph 5).

If these options are not available, or at the employee's request, formal redeployment will be considered.

As part of that process the University will actively seek suitable alternative employment for the member of staff. This will include any posts for which training may be required. The redeployment process is about matching transferable skills not necessarily seeking an exact job match. The University will also ensure that departments / schools / centres are willing to take on staff who have been redeployed, including staff that may need significant retraining.

Where the employee does not want to be considered for redeployment or the redeployment process has been unsuccessful, the university's redundancy procedure should be applied.

However, the fact that a member of staff is in a particular fixed-term post the funding for which has ceased, will not be the sole criteria for selection for redundancy.

The redundancy procedure will be applied to fixed-term staff in the same way as it is applied to comparable permanent members of staff including any redundancy payments.

The University will not seek to enforce any redundancy waiver clauses.

The UCU reserves the right to oppose any compulsory redundancies.

### *Conclusion*

The University recognises that this policy represents a significant cultural shift in the use of fixed-term contracts. However, the University believes that to meet both its legal and moral obligations, and to strengthen its sustainable research capacity, such a policy is both necessary and welcome.

This policy is endorsed by the University at the highest level and all managers and members of staff are obliged to comply with its content.

## Negotiators' resource: Checklist on negotiating a Fixed-Term/Open-Ended contract policy

	Yes	No	Partial	Comment (notes on areas for further negotiation)
Has the proposed agreement been negotiated formally with UCU?				
Will the collective agreement be incorporated into individual employment contracts?				
Has the Regional / National Official been informed or consulted over the proposal				
If YES, what advice did the branch receive?				
Have all affected groups of members been consulted?				
If YES, please provide feedback.				
If NO, please advise when this will take place.				
Is the final proposal in writing?				
How will the final agreement be published and what format is it published in (pdf)?				
Where can members access the policy?				
Is it applicable to all staff groups (including research staff and hourly-paid staff)?				
Is the procedure, open, transparent and equitable?				
Does it comply with any existing UCU guidance				

(please indicate details of compliance overall)?				
Policy supported by fixed-term staff committee and/or fixed-term representatives and fixed-term members?				
Agreement that permanent contracts will be the normal form of employment?				
Agreement that the number of fixed-term contracts in use now and in the future will be reduced?				
Agreement that the regulations/ provisions of the policy will not be used as a reason for nonrenewal of a fixed-term contract?				
Agreement that fixed-term contracts will only be used for transparent and objective reasons where there is a genuine fixed-term need, even the first use of a fixed-term contract?				
Agreement that fixed-term contracts will not be used a period beyond 4 years of continuous employment?				
No 'blanket' agreement on the specified circumstances in which a fixed-term contract can be used?				
Agreement on how individual cases will be assessed to see if they meet the objective justification criteria and UCU involvement in such assessment?				

Agreement on the process and timetable to be used for the transfer of existing fixed-term staff to permanent contracts?				
Agreement on the management of any remaining fixed-term contracts to include no less favourable treatment?				
Commitment to seek further alternative funding or alternative employment for staff at the end of a fixed-term contract?				
Has the Regional Official been informed or consulted over details/advice?				
Equality impact assessment carried out?				
Is there a review procedure? How will the agreed text be preserved? Note: electronic storage requires pdf format to avoid the possibility of editing without agreement				
Is there a monitoring process for the use of the procedure?				
Will UCU locally monitor the use of this procedure?				
What training will be provided and to who, in the use of and application of the procedure?				
How will UCU inform local branch officers of the procedure and its application?				
Can UCU use this procedure in local				

organising and recruitment initiatives?				
Agreement on the process to be applied when a fixed-term contract is coming to an end to include meetings with individuals and trade unions and consideration of redeployment?				

# Negotiator's resource: Higher Education - Checklist for negotiating on contracts

<b>Contractual status negotiating checklist</b>	
Has the employer agreed that all casualised staff have employee status?	
Has the employer agreed not to use contracts that offer no guaranteed hours (such as zero hours, as and when contracts, hours to be notified contracts or contracts with a very low minimum hours etc)?	
<p>If non-employee contracts or 'zero hours' contracts continue to be used after negotiations, has UCU made clear its opposition and identified this with the employer as a future negotiating priority?</p> <p>Will the management still be recruiting to zero hours contracts?</p> <p>Can you confirm that no current staff will be on zero hours contracts after negotiations who were not already on zero hours contracts?</p>	
<b>Fractionalisation:</b>	
Is there a process for transferring hourly paid staff to fractional contracts?	
If yes, please identify the threshold of hours required to access to a fractional contracts:	
How many hourly paid staff in aggregate and as a percentage can expect to be offered a fractional contract as a result of this agreement?	
Is the method of calculating fractional contracts compliant with UCU guidance and include pay for all hours worked including preparation time for teaching/lecturing staff? As a guide we would expect a minimum of 2.5 hours' pay for each teaching hour to account for preparation.	
Are there other qualitative conditions that hourly paid staff have to meet to qualify for transfer to a	

fractional contract and if so, what assessment has been made of the risk of potential discrimination?	
<b>Variable hours contracts:</b>	
If variable hours contracts are being used, is the guaranteed core hours acceptable and compliant with UCU guidance? (For example, is it based on an assessment of the work that has been done by the employee in the past or is there a ratio of core hours to flexible hours of at least 2:1?)	
Does the employee have a right to dispute any loss of non-core hours and trigger a redundancy process?	
Does any attempt to reduce core hours without mutual agreement trigger a redundancy process?	
If variable hours contracts are being used, is there an upper limit on flexible hours that can be added on without triggering an upward revision of core hours and/or fractionalisation?	
<b>Remaining hourly paid staff</b>	
Are hourly paid staff assimilated to at least the minimum grade for a lecturer with progression within grade and between grades consistent with comparable staff?	
If hourly rates continue, are pay and benefits pro-rata with an acceptable method of calculation that provides pay for all hours worked, for pro-rata holiday pay to be identified, and any other benefits paid separately and not rolled up in the hourly rate?	
Calculation of hourly rates to include preparation time for teaching/lecturing staff. As a guide we would expect a minimum of 2.5 hours pay for each teaching hour to account for preparation.	
Do hourly paid staff have access to the occupational pension scheme (usually USS or TPS)?	
No compulsory redundancies as a consequence of the agreement?	
<b>Fixed-term contracts policies:</b>	
Is there an agreement in place that establishes that fixed-term contracts will only be used for transparent	



and objective reasons where there is a genuine fixed-term need?	
Does the fixed-term policy establish that the normal expectation is that staff will be on permanent contracts?	
<b>Involvement, consultation and monitoring</b>	
Please give details of how hourly paid staff were consulted and involved throughout the negotiations	
Does the agreement have the support of hourly paid members and the branch?	
Please detail any potential detriments or significant dissenting views	
What is the agreed procedure for monitoring this agreement?	
When will the agreement be reviewed?	
How will UCU locally monitor this agreement?	
Has the branch identified future negotiating priorities arising from these negotiations?	

## Negotiator's resource: Higher Education framework assimilation checklist

Hourly paid assimilation checklist point	
Are all roles occupied by hourly paid staff to be included in role analysis / Job evaluation?	
For academic staff, assimilation to grading structure should be by matching to the national academic role profiles or agreed local variants thereof	
Right to appeal against grade/job family in the same way as for other staff	
The national role profiles should not be amended such that they no longer read across (eg T&S 2, T&R 2 and Research 2 should all be on the same grade)	
Hourly paid teaching staff should be assimilated to at least Grade Academic level 2 (the minimum grade for a lecturer)	
Effective date of implementation the same as for other staff – BUT cannot restrict members' rights to pursue Equal Pay claims	
Progression within grade	
Progression between grades consistent with comparable staff	
Permanent pro-rata contracts secured for staff	
Employee status secured	
No zero hours or 'as and when' contracts proposed (or hours to be notified contracts or minimum hours contracts that are near zero hours contracts)	
If variable hours contracts are being used, is the guaranteed core hours acceptable and compliant with UCU guidance? (For example, is it based on an assessment of the work that has been done by the employee in the past or is there a ratio of core hours to flexible hours of at least 2:1?)	
Does the employee have a right to dispute any loss of non-core hours and trigger a redundancy process?	

Does any attempt to reduce core hours without mutual agreement trigger a redundancy process?	
If variable hours contracts are being used, is there an upper limit on flexible hours that can be added on without triggering an upward revision of core hours and/or fractionalisation?	
Calculation of pro-rata contracts (or hourly rates) includes pay for all hours worked (as a guide, we would expect a minimum of 2.5 hours' pay to account for <i>preparation time</i> for each teaching hour for lecturing staff). Marking should be accounted for separately.)	
Harmonisation of terms and conditions with other academic or related staff. If there are any differences please highlight and send relevant paperwork	
If hourly-rates continue, are pay and benefits pro rata, with an acceptable method of calculation that provides pay for all hours worked, for pro-rata holiday pay to be identified, with payment for sick pay, pensions and other employee related benefits paid separately and not rolled up in the hourly rate?	
Access to occupational pension scheme (usually USS or TPS)	
No compulsory redundancies as a result of assimilation	
Is there a process for transferring hourly paid lecturers to fractional contracts?	
If yes, please identify the threshold of hours required to access to a fractional contracts:	
How many hourly paid lecturers in aggregate and as a percentage can expect to be offered a fractional contract as a result of this agreement?	
What kind of contracts will be used for HPLs who are not offered fractional contracts?  Will any HPLs be on zero hours contracts?	
Is the method of calculating fractional contracts compliant with UCU guidance and include pay for all hours worked?	
Are there other qualitative conditions that hourly paid staff have to meet to qualify for transfer to a fractional	

contract and if so, what assessment has been made of the risk of potential discrimination??	
Is there an agreement in place that establishes that fixed-term contracts will only be used for transparent and objective reasons where there is a genuine fixed-term need?	
Does the fixed-term policy establish that the normal expectation is that staff will be on permanent contracts?	

## Negotiators' resource: Notes

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Produced by UCU's Bargaining and Negotiations Department, Carlow Street, London, NW1 7LH  
[bargainingandnegotiations@ucu.org.uk](mailto:bargainingandnegotiations@ucu.org.uk)  
[www.ucu.org.uk](http://www.ucu.org.uk)