

FACTSHEET 2

Temporary Employees and Fixed Term Contract Employees

Temporary Employees

These are employees taken on to cover a short term employment need – perhaps to cover maternity leave or the long term illness of a permanent member of staff.

The legal employment definition of a temporary worker is the same as a part-timer: someone 'paid wholly or in part in respect of the time she/he works in relation to other workers employed by the ... employer under the same type of contract'

Of course, temporary employees may be contracted to work full or part-time.

Like part-timers, irrespective of the hours worked each week or the period of employment, whether it is a few weeks or a longer period, he/she is protected by law and may not be treated less favourably than someone who is working on a permanent contract.

Employment protection applies to 'workers', not just 'employees'. A worker is defined as someone under a contract to personally perform work for another party.

So, the terms of employment of permanent and temporary employees must be similar. A temporary employee is entitled to paid annual holiday, statutory sick pay, the National Minimum Wage, minimum notice and so on.

Basically, a temporary employee must not be treated any differently than a permanent employee.

Fixed Term Employees

A fixed term contract (technically a limited term contract) specifies that employment is for a specific period of time and it will normally end automatically when the agreed end date is reached. Usually a fixed term contract is used for a clear reason – a special project undertaken or because funding for the post has been secured and a further grant is not guaranteed after the period stipulated.

At the end of the employment term it is not required for the employer to give written notice but this is advisable in the form of confirmation following a discussion with the individual near to the end of the period.

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Employees have the same employment protection rights on fixed term contracts as permanent ones, so unless there is a clear objective reason for such a contract they offer little advantage to the employer. In any event, if a fixed term contract (or a series of fixed term ones) extends beyond 4 years then the employment is deemed to be permanent in law.

If the contract is not renewed and employment ends this is considered to be a dismissal, and if the employee has over two service the employer has to show that there's a 'fair' reason for not renewing the contract. An employee has the right not to be unfairly dismissed and to be given a written statement of reasons for not renewing the contract.

If the role is one that will not be filled (say the end of a project) an employee is entitled to statutory redundancy payments if she/he has the required length of over two years service.

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