

GUIDELINES ON TEMPORARY APPOINTMENTS / ACTING UP ARRANGEMENTS / SECONDMENTS

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1 Scope

- 1.1 This procedure applies to all categories of employee, except the Chief Executive. It includes teachers except in circumstances of compulsory transfer for which a separate procedure exists. The procedure is relevant whether the employee is permanent or temporary, full time or part time.
- 1.2 These guidelines will not automatically apply during periods of organisational restructuring. Please seek advice from your HR Business Partner in such cases.

2 Temporary Appointments/Acting Up Arrangements

- 2.1 To provide stability to staff and services, recruiting managers should recruit to posts on a permanent basis unless specific circumstances warrant the use of a temporary contract.

Temporary contracts should only be considered in the following circumstances:

- The funding for the post is temporary
- The post is to backfill another member of staff to provide cover, such as maternity leave cover, long term absence cover, secondment cover
- To provide work experience, such as modern apprenticeships and student placements (including summer placements)

Managers should regularly review if the appointment to a temporary appointment/contract is required in line with contract end dates. Where a member of staff has been in a temporary post for a period of 2 years or more, managers should consider if the appointment is truly temporary (in line with one of the criteria above) or if the appointment should be made permanent.

Managers must be aware that if a member of staff has a temporary contract (but does not hold a permanent substantive post), the Council may be liable to pay a redundancy payment at the end of the temporary contract (if the employee has gained a total of 2 years' service or more by the end of their temporary contract).

- 2.2 In accordance with the principles of equality of opportunity any temporary vacancies should normally be advertised at least internally on a Council-wide basis.
- 2.3 If however the manager considers that the post can be covered by an acting-up arrangement, whether 100% of the duties or less, without Council-wide advertising, then the manager should ensure that all potentially suitable employees are given the opportunity to express an interest and if there is interest from more than one employee who appear to meet the minimum essential criteria, interviews must take place.
- 2.4 In the majority of cases an acting-up arrangement would not be expected to continue beyond one year, for example to cover for maternity or short/medium term sickness.
- 2.5 In reality, it is likely that, where an employee has continuously covered a post for 2 years and an opportunity arises for that position to be made permanent, the manager will wish to appoint that employee permanently. However, there may be circumstances

when, for a number of reasons, the manager may not necessarily want to appoint without advertising. The decision of whether or not to advertise will therefore rest with the manager.

3 Secondments

3.1 Secondments of employees from one post to another are at the discretion of the original employing department. Any employee may ask their manager for a secondment but such a request may be declined. Any request should be given full consideration bearing in mind such things as:

- impact on quality and performance of the department or
- the ability to recruit a replacement for the time period or
- the inability to be able to re-organise work with existing staff.

3.2 Where a secondment is agreed the employee has a contractual right to return to their substantive post at the end of the secondment. This means that any consequential appointments (eg backfill) made because of the secondment must only be made on a temporary basis.

3.3 Managers must therefore ensure that the Notification of Change form clearly indicates “secondment” to ensure the employee’s right to return to their substantive post is reflected in their change to contract.

3.4 In normal circumstances a secondment should not continue beyond two years. If there is any likelihood that a secondment might continue beyond a two year period then the service must consider whether the secondment post can be made permanent or whether it should be ended.

If it is decided to make the post permanent, the seconded employee can be confirmed in the post, provided that a suitable process was followed prior to the secondment appointment. Advice should be taken from the HR Case Management Team.

3.5 Secondments can only be extended beyond two years in exceptional circumstances and advice must be sought from the HR Case Management Team.

3.6 Where a secondment is not agreed by the current manager and an individual employee still wishes to move to a temporary alternative post within Scottish Borders Council then in the event that the employee is appointed to the alternative post, they will have to resign from their original post. This may have implications for the employing department of the temporary post.

4 Temporary appointments of permanent employees

4.1 If for any reason a secondment has not been agreed, the manager must take care when considering the appointment of a permanent employee to a temporary post. This is because, by appointing a permanent employee, the Council may be liable to pay a redundancy payment at the end of the temporary contract (if the employee has gained a total of 2 years’ service or more by the end of their temporary contract).

4.2 If the new post is permanent and is only available on a temporary basis, for example as a result of maternity cover or long term sickness, there should be no problem. This is because on the return of the substantive post holder from maternity or sickness the temporary employee will leave the Council (unless redeployment is available) and no

redundancy will be payable as redundancy payments are only due when a post is deleted.

- 4.3 Any manager seeking to appoint to a temporary post must therefore be aware of the financial consequences of appointing any employee who holds a permanent post and who will have continuous service of at least 2 years by the end of the new temporary contract.
- 4.4 The cost of potential redundancy which could arise at the end of the temporary contract must be identified before the offer of employment is made. Although efforts will always be made to redeploy an employee who faces redundancy, redeployment cannot be guaranteed. An employing department would be fully justified in not appointing a candidate on the grounds of the potential financial cost of redundancy.

5 Temporary appointment of temporary employees

- 5.1 It should be noted that redundancy payments would also be due when a temporary contract or series of temporary contracts comes to an end and an employee has accrued more than 2 years' continuous service. Managers must again be aware of this and the possibility of liability for redundancy payments before making any appointment.

r6 Continuous Service

- 6.1 Managers should also be aware of the The Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 ("the Modification Order"). Under these regulations, employees who are appointed to Scottish Borders Council from other Councils or any organisation specified in these Regulations have the right for their previous continuous service to be recognised by this Council for the purposes of calculating their entitlement to a redundancy payment. In some cases this could add considerably to the cost. (See Guidelines on Continuous Service for further details).

7 Permanent appointment of temporary staff

- 7.1 Where an employee has been in a post for a continuous period of 2 years the manager has discretion to appoint an employee on a permanent basis without advertising or interview. This applies whether the employee is in post:
- under an acting-up arrangement or
 - following successful application and interview in response to an advert for a temporary post

8 Ending Temporary Appointments

- 8.1 While temporary appointments end automatically at the end of the specified term, they should not simply be allowed to lapse.
- 8.2 Where the employee will have been employed for less than one year at the time the contract expires, they should be given notice in writing that the contract will end on the expiry date and will not be renewed.
- 8.3 Where the employee will have been employed for more than one year at the time the contract expires, a letter should be sent to the employee inviting them to a meeting to discuss the status of their contract. The letter should give at least one week's notice of

the meeting and state that the employee may be accompanied by a union representative or work colleague. After the meeting the manager must write to the employee confirming the outcome of the meeting. If the contract is not being renewed the employee must be given at least one week's notice of the end of the contract and informed that they will be placed on the redeployment register during their notice period.

- 8.4 Where the employee will have been employed for more than 2 years at the time the contract expires, the same procedure should be followed as for employees with one year's service. However, they must be given at least 2 weeks' notice of the end of contract after the meeting. They should be informed of their right to a redundancy payment (if applicable) and that they will be placed on the redeployment register during their notice period.

- 9 **Other related document:** [Guidelines on Continuous Service](#)