

# Cherwell District Council

## Personnel Committee

30 January 2014

<b>Joint Fixed Term and Temporary Contracts Policy and Procedure</b>
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### Report of Head of Transformation

This report is public

#### Purpose of report

To seek approval of the Council's Fixed Term and Temporary Contracts Policy and Procedure (Appendix 1), which is a joint policy and procedure with South Northamptonshire Council.

#### 1.0 Recommendations

The meeting is recommended;

- 1.1 To approve the new Joint Fixed Term and Temporary Contracts Policy and Procedure (Appendix 1).
- 1.2 To agree to the implementation of the new joint policy and procedure with effect from 3 February 2014, subject to the Appointments and Personnel Committee at South Northamptonshire Council resolving to similar effect.

#### 2.0 Introduction

- 2.1 This policy applies to all staff employed on fixed-term or temporary contracts at Cherwell District and South Northamptonshire Councils with the exception of:
  - Apprentices and work experience students for no more than one year who are required to attend college as part of a higher education course.
  - Agency workers who are employed directly by the temporary staffing agency and for whom there must be a distinctly separate employment relationship / Consultants engaged under a contract for services / Casual and staff bank
  - JMT / Employees above Service Manager Level (JNC terms and conditions). A separate policy for JMT will be developed shortly.

## 3.0 Report Details

Responsibility for the application and operation of this Policy has been determined as follows:

### 3.1 JMT

- To act within the policy as Designated Officers to whom formal dismissal powers have been delegated, within the Councils' scheme of delegated authority.
- Ensuring effective implementation and awareness of the procedure.

### 3.2 Managers

- To be aware of their responsibilities as determined by the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002.
- To ensure there is a justifiable and demonstrable reason for appointing to a post on a fixed-term or temporary basis, and that this is fully explained during the recruitment process and in any subsequent correspondence relating to the post/contract.
- To ensure there is appropriate approval for recruiting to a post via the use of the Vacancy Assessment Form (VAF) i.e. there should be no recruitment to a fixed term or temporary post due to a permanent contract not being approved.
- To ensure that all fixed-term or temporary employees understand the nature of their contracts, and are consistently advised as to the likelihood of extension/renewal and the reasons for this, within the timescales outlined in this procedure.
- To liaise with employees, appropriate Trade Union representatives and relevant Human Resources staff as appropriate, regarding formal procedures and meeting arrangements.
- To provide written statements as may be required/requested by the employee, confirming the status of the fixed-term or temporary contract, and the reasons for any perceived less favourable treatment or the ending of a fixed-term or temporary contract.
- To ensure the dismissal process is followed when ceasing or not renewing a fixed-term or temporary contract.

### 3.3 Employees

- To ensure they have a clear understanding of the fixed-term or temporary nature of their employment, and reasons for this.
- To have no expectations that their employment will be extended or made permanent, unless they received formal, written clarification of this.
- To understand that they have no right to receive 'At Risk' status where their contract is reaching its fixed end date.
- To raise any issues relating to their fixed-term or temporary employment and any perceived less favourable treatment with their Manager at the earliest opportunity.
- To attend meetings as necessary in connection with their fixed-term or temporary contract, noting their right to be accompanied by a work colleague, or recognised Trade Union representation at any such meetings.

## **4.0 Conclusion and Reasons for Recommendations**

4.1 This policy is designed to reflect the Councils' wish to:

- treat all employees fairly and consistently, with due regard to statutory rights and obligations;
- recognise that anyone working for or on behalf of the Council, however briefly, is the responsibility of the Council;
- maintain a reasonable degree of central consistency, while recognising the need for individual Heads of Service to allocate resources within their own divisions to maintain and deliver services and respond to changing circumstances;
- minimise the risks arising from unintentional breaches of employment, discrimination, and equality legislation (and codes of practice), with the consequent costs to the Council financially, and in terms of reputation;
- deliver services in a cost effective way.

## **5.0 Consultation**

Formal consultation with the recognised union commenced on 9 December 2013 and ended on 6 January 2014. Meetings to receive any comments from UNISON and the Staff Consultation Group were held on Thursday 9 January and Thursday 16 January 2014. A meeting was held on Friday 10 January. One specific comment was recorded on the Consultation Log in relation to this policy and procedure.

## **6.0 Alternative Options and Reasons for Rejection**

6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: If the policy in Appendix 1 is not approved then, the Council will not be able to offer the specific guidance to Managers which is required to meet the Council's legal obligations in relation to the management of employees on fixed term and temporary contracts.

## **7.0 Implications**

### **Financial and Resource Implications**

7.1 This policy provides a framework for the introduction and monitoring of fixed term and temporary contracts for employees at both Councils. The guidance for the approval, application and monitoring of such contracts should ensure that financial accountability measures are in place.

Comments checked by: Joanne Kaye, Interim Strategic Accountant, ext. 1545,  
Joanne.Kaye@cherwellandsouthnorthants.gov.uk

### **Legal Implications**

7.2 This policy refers to The Fixed-term Employees (Prevention of Less Favourable

Treatment Regulations 2002), which afford fixed-term or temporary employees important statutory rights that have an impact on the use of such contracts, in particular the right not to be treated less favourably than a comparable employee on a permanent contract in respect of pay, contractual terms and conditions save where objectively justified.

Comments checked by Kevin Lane, Head of Law and Governance, Tel No. 03000030107, kevin.lane@cherwellandsouthnorthants.gov.uk

### **Risk implications**

- 7.3 Any risk in the use of temporary or fixed term contracts would be mitigated by following the guidance in this document and seeking advice from the HR Team.

Comments checked by: Louise Tustian, Senior Performance and Improvement Officer, ext. 1786, Louise.Tustian2@CherwellandSouthnorthants.gov.uk

## **8.0 Decision Information**

### **Wards Affected**

None

### **Links to Corporate Plan and Policy Framework**

Strategic Priority Enhance Performance and Key Objective Deliver the Council's Transformation programme.

### **Lead Councillor**

Councillor Barry Wood, Leader of the Council

### **Document Information**

<b>Appendix No</b>	<b>Title</b>
Appendix 1	Fixed Term and Temporary Contracts Policy and Procedure
<b>Background Papers</b>	
None	
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