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### **Employment Status Guidance**

This guidance is effective from 1st November 2015.

1. **Purpose**

Edinburgh Napier University aims to identify the most suitable practices for engaging individuals to complete work for and on behalf of the University. The nature of the University’s activities require the need for flexibility in the contractual arrangements for its workforce.

1. **Application of guidance document**

This guidance document applies to employees of Edinburgh Napier University, collectively referred to as ‘staff members’ and those completing work on behalf of the University under casual worker arrangements.

1. **Variations to this guidance document**

Edinburgh Napier University reserves the right to terminate, replace, or vary this document from time to time.

1. **Principles**

The following principles confirm the University’s commitment.

* 1. Engaging all members of its workforce on the most appropriate contract and to doing this in a fair and transparent way.
  2. Utilising a range of contractual arrangements, reflecting the fact that in some areas of activity the volume and frequency of work is variable and often unpredictable.
  3. Where there is a sufficiently meaningful and predictable level of regular work over a given period the University will typically offer an employment contract which may be fixed term or open ended, full or part-time and will provide as much security of employment as possible.
  4. Providing as much notice and commitment of work as possible to all members of the workforce. When it is not possible to predict exactly how many hours work will be available over a given period, the University will always aim to provide as clear an indication as possible.
  5. Providing the University’s post-graduate students with the opportunity to carry out tutoring and demonstrating as part of their early career development and providing the necessary training and support to fulfil these important duties.
  6. Only where the requirement to undertake work is sufficiently irregular and occasional, or on an ad-hoc basis and where individuals can choose whether or not to undertake the work offered will work be offered on a non-employment basis. Such workers (known as ‘casual’ staff) are not employees of the University and are hence not employed on University contracts or subject to the University terms and conditions of employment.

1. **Governance**
   1. HR Advisers will advise on the most appropriate contractual arrangements to use and will regularly review and audit practices across the University to ensure best practice is adopted and shared. Human Resources & Development will consider the nature of the role and whether there is a justification for offering this on either a fixed-term or casual basis, recognising that the preference is to offer the highest level of commitment appropriate to any given situation.
   2. The University is committed to sharing information with its recognised Trade Unions and will continue to work with Union representatives to regularly review employment practices to ensure these principles are being followed appropriately. The monitoring of the use of contract types by the University will be tabled at the Joint Negotiation Consultation Committee (JNCC).
2. **Contract types**
   1. The University utilises a range of contractual arrangements, reflecting the fact that levels of work are variable and sometimes unpredictable. The following sections outline the various contract types and the circumstances in which they are typically used.
   2. Contract types:
3. Permanent employment contracts
4. Fixed term employment contracts
5. Variable/zero hours employment contracts
6. Casual worker arrangements
7. **Permanent employment contracts**
   1. The University is committed to offering permanent (open-ended) contracts when appropriate. For the vast majority of long-term roles this will be the contractual norm.
   2. Such a contract is for an indefinite period with no specified end date. Where there is a reasonable expectation that a role will be ongoing, this will be the standard approach to employment.
8. **Fixed term employment contracts**
   1. The University will use fixed term employment contracts where the business requirement for the role can clearly be demonstrated to be uncertain or finite for example:
9. It is known in advance that a particular role will come to an end on a specific date.
10. The period of engagement is for the purpose of completing a particular project or task.
11. The period of engagement is for the purpose of temporarily replacing an employee who is absent from work for a period of more than four weeks (e.g. maternity leave, long-term sickness, career break, etc.) but who retains the right to return to their substantive post.
12. The post is dependent on finite external funding, which has been provided for the purpose of completing a specified task or project.

8.2. For fixed-term arrangements, please view the University’s [Fixed-term Policy Statement](http://staff.napier.ac.uk/services/hr/HRDocuments/Pages/Policy%20A-Z.aspx) for more information.

1. **Variable/zero hours employment contracts**
   1. The use of zero hours employment contracts will generally not fulfil the key principles set out in section four. However, it is recognised that they have been used in the past and may be considered mutually appropriate in some very limited circumstances.
   2. The University will keep all such contracts under review and consider, in consultation with the staff member, whether there is a more appropriate approach where a level of mutual commitment to hours can be achieved. Where zero hours are in use the conditions of employment for this group operate in accordance with others on employment contracts with the same contractual entitlements (e.g. holidays) allocated on a pro rata basis relative to the actual hours worked. For the avoidance of doubt, there is never any intention to establish any form of exclusivity arrangements in such contracts and staff members on zero hours contracts are hence able to decline work, which is offered and also to work for other employers without the permission of the University.
   3. New zero hours contracts will only be offered where it is mutually agreed that there is justification for agreeing an employment arrangement but the potential hours are completely unpredictable and/or very variable. Prior to offering a role on a zero hours employment basis formal approval is required from the Dean of School/Director and relevant HR Client Partner.
   4. Please view the University’s [Zero Hour Lecture Guidance](http://staff.napier.ac.uk/services/hr/Documents/Policies/Zero%20Hour%20Lecturer%20Guidelines%20August%202015.docx) for more information.
2. **Casual worker arrangements**
   1. The University will only use hourly paid casual worker arrangements in circumstances where the requirement to undertake work is irregular and occasional and where it is not possible to predict whether there will be any work and if so when and how much. The University has full discretion about whether to offer any work to the individual. Further, an individual can equally choose whether or not to undertake the work offered. In legislative terms there is no mutuality of obligation and workers are not legally defined as ‘employees’ and are not employed by the University on a contract of employment or subject to the University’s standard conditions of employment or otherwise although they do qualify for certain legal rights.
   2. Payment for hours worked is determined by the nature of the work undertaken for which an appropriate hourly rate is paid. This hourly rate is calculated in accordance with the University’s pay and grading structure and should be based on a standard, graded job description
   3. Payment for hours worked are processed in accordance with monthly casual claims forms, appropriately authorised by the relevant Dean of School/Service Director. An additional payment in lieu of statutory holiday entitlement will automatically be paid and will appear as a separate figure on pay-slips for hours processed. Holiday entitlement will be calculated based on hours worked and will be pro-rated on the basis of a full time workers statutory holiday entitlement (currently 28 days). For the avoidance of doubt, such workers have no additional entitlement in respect of public holidays.
3. **Regular monitoring contractual practices**
   1. To ensure that the University employment practices are in line with the principles outlined above the following monitoring and reporting processes will be maintained.
   2. Data on the use of different contract types will be produced by HR on a regular basis and shared with Deans/Directors and trade unions.
   3. Summary data will also be shared with the recognised trade unions and reported to the ULT.
   4. HR Client Partners will meet with School/Service management and senior administration staff to review the arrangements for engaging their extended workforce on a regular basis.
   5. This assessment will take into account:
4. The nature of the work carried out
5. The number of hours carried out
6. The level of predictability of hours
7. The likelihood of future work following the same pattern
8. Feedback received from employees/workers
   1. HR will ensure that best practice is shared across the University.
   2. As such the payment and contractual arrangements for the extended workforce across the University will be regularly monitored and reviewed and may be subject to change.

**Questions**

If a staff member is unsure about any matter covered by this guidance document, please contact HR&D.

## **Policy version and revision information**

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## **Change Record**

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