



University of Essex



# Employment Contracts Policy

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# 1. Policy Statement

1.1 A contract of employment is an agreement between an employer and an individual (e.g. an employee) which sets out their employment rights, responsibilities and duties. It is a legally binding agreement. Individuals may also engage with the university in other ways that are outside of the employment relationship. The main types of status of individuals engaged by the University are: employee, worker and self-employed. This policy provides information on the types of contracts we use, the roles and responsibilities and the operating principles that underpin them. An employment relationship can be created whenever someone works for us, whether or not this is recognised formally through an employment contract document. It is important, therefore, that employment contracts are created intentionally and by individuals that are authorised to create them.

## 2. Scope

2.1 This policy clarifies the types of contracts that the University uses for different working arrangements. Individuals who are employed or engaged by the University of Essex Campus Services (UECS) or Wivenhoe House Hotel have their own specific contractual arrangements.

## 3. Employment status

3.1 The main types of employment status are:

- employee
- worker
- self-employed and contractor

### Employee

3.2 In most cases we will engage an individual as an employee.

An individual is likely to be an employee where the following features are in place:

- mutuality of obligation: there is an obligation for the University to provide work and for the individual to accept and perform the work as directed by the employer in exchange for remuneration
- a duty to provide services personally: The individual is expected to perform the work personally. It is not possible for someone else to perform the work on the individual's behalf

- control and direction over the person's work: the University has a significant degree of control over the individual's work and to specify how and when it is done. For example, requiring someone to attend a specific meeting or conduct teaching at a particular time
- the integration into the organisation: the degree of integration of the individual into the University. For example, they have a University email address and phone number, are listed as an employee on the website

3.3 The employment contract sets a start date, hours and pay. There are provisions for probation and notice period. The contracts also require compliance with University policies and procedures.

## Worker

3.4 An individual is likely to be a worker where the following features are in place:

- they occasionally do work for the University
- the University does not have to offer them work and they do not have to accept it – they only work when they want to
- their contract with the University uses the term 'on demand', or something similar
- they had to agree to University terms and conditions to undertake the work
- they cannot send someone else to do their work
- the University provides the equipment they need to do their work
- they are under the supervision of a line manager

3.5 At the University 'on demand' agreements are used for workers where there is no mutual obligation to be offered work or to accept work.

## Self-employed

3.6 A self-employed contract, often called a contract for services, is an agreement between the University and an individual providing specific services on a self-employed basis. This type of contract differs significantly from an employment contract, as the individual is an independent contractor rather than an employee. The self-employed individual generally has control over how, when and where the work is done, rather than being directed by the organisation. They often set their own hours, use their own equipment and may subcontract work or hire others to assist. A self-employed contractor has the right to refuse work and may take on multiple clients. Self-employed individuals are not normally paid via PAYE, and they do not have the rights and responsibilities of an employee. The test in [Financial](#)

Procedure Note 2 – consultancy and self-employment must be completed in all cases where self-employment is considered, and in some cases means self-employed contracts are paid through the payroll. Further information can be obtained by contacting the Employee Reward Team.

3.7 An individual is likely to be self-employed where the following features are in place:

- they provide quotes to receive work
- they are not under direct supervision when working
- they submit invoices for the work they have undertaken
- they are responsible for paying their own NI and tax

## 4. Roles and responsibilities

4.1 Individuals are responsible for:

- being aware of the contract type on which they are engaged
- understanding what their contract type means and entails. If any part of the contract is unclear, individuals should seek clarification from their Line Manager.
- understanding their employment rights
- supplying right to work information

4.2 Line managers are responsible for:

- identifying the correct contract type for the role they have in their area
- ensuring that everyone they are responsible for is issued with a contract before or on their start date and it is the correct contract type for the role. This means ensuring the required approvals are in place and sending the appointment information to People & Culture at least five days before the start date
- contacting People & Culture if they require contract assistance

4.3 People & Culture are responsible for:

- sign-posting individuals to information related to contract types
- supporting line managers to identify the correct contract for a role
- issuing contracts before the first day of employment
- carrying out right to work checks



- regularly reviewing the use of on-demand workers

## 5. Operating principles

5.1 We are legally required to issue anyone working with us with a contract/on-demand agreement on day one of their engagement with us.

5.2 The contractual relationship is determined as much by what happens in practice as what may be agreed on paper. It is a matter of law and not a matter of choice. This contractual relationship also determines the use of self-employed individuals and whether they should be defined as employees, workers or self-employed arrangements.

5.3 Everyone working for the University must be clear about their rights and responsibilities as employees or workers.

5.4 Arrangements cannot be made locally to engage or pay people without a contract or agreement. This includes any activity where we may provide payment in kind e.g. expenses.

5.5 While fixed-term and on-demand arrangements are sometimes necessary for business reasons, permanent contracts should be used where possible.

5.6 Heads of Department/Section and those with responsibility for others must ensure that the University engages those that work for us on the correct basis. This includes the offer of work that may be required to deliver aspects of externally funded projects.

5.7 People & Culture must be informed in good time about new starters so that contracts and right to work checks are completed **before** the first day of work and contracts are issued.

## 6. Types of employment contract

### 6.1 Permanent employment contracts

These are open ended contracts for academic (.pdf) and professional (.pdf) staff. They do not have a specified end date.

Academic posts fall into one of the following categories: ASER (education and research), ASR (research), ASE (education) and cover grades 7-11.

Professional Services posts at the University cover grades 1 to 11 (UECS Ltd and Wivenhoe House Ltd have contracts with these employers). It is possible to have an open ended (permanent) contract where hours are part-time or varied annually, usually in response to student demand. Within our flexible working policy part-time and annualised hours are balanced against the business needs of the

University. The University may seek to implement annualised hours to meet a specific business need and employees may request, subject to agreement with their line manager, to work annualised hours where a total number of hours for the year are stipulated but to a pattern agreed with their line manager. For example, someone may only work during term time or may vary their hours to meet times of peak demand. All requests to implement annualised hours should be balanced against the business needs of the University.

## **6.2 Fixed-term employment contracts**

There are fixed-term contracts for academic and professional staff. These contracts have a specified duration, ending on a particular date or when a specific task is completed.

Contracts for a fixed period must have a justifiable reason (.pdf) why the contract is only for a fixed-term. A fixed term contract will conclude on the date stated in the contract.

## **6.3 Assistant Lecturers and Graduate Laboratory**

### **Assistants**

Contracts for student teachers and lab assistants are fixed-term (for Assistant Lecturers) and on-demand contracts (for Graduate Laboratory Assistants) that will come to an end when the student completes their studies. An umbrella contract is in place for the duration of their studentship. Assistant Lecturer work is triggered by engagements within the department(s), Graduate Laboratory Assistant work is based on demand.

All contracts must be accompanied by a job description.

## **6.4 On-demand agreement**

On-demand agreements are open-ended agreements that allow 'as and when' engagements, with each engagement usually no longer than 12 weeks. There is no mutuality on either side, the University does not have to offer any hours and the on-demand worker does not have to accept hours that are offered to them. An on-demand agreement is an open-ended agreement to be used where short period of work will be provided on an 'as and when' basis. On-demand arrangements will only be used where the relationship is genuinely on-demand and not where an employment relationship exists.

# **7. Equality Impact Assessment**

7.1 The University has conducted an Equality Impact Assessment on this policy and is satisfied that its application should not result in a differential and negative impact on any groups of employees identified under the Equality Act 2010.

## 8. Monitoring

8.1 People, Culture, and Inclusion Advisory Group will monitor the impact of this policy.

## 9. Related university policies and procedures

- [Flexible Working Policy](#)
- [Probation Policy](#)
- [Managing Structural Change Policy](#)

## 10. University sources of support and information

- [Assistant Lecturers](#)
- [Graduate Laboratory Assistants](#)
- [On-Demand Agreements](#)
- [Probation](#)
- [My Contract Information](#)
- [Recruiting Staff](#)



## Document Control Panel

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