



DERBYSHIRE ASSOCIATION OF TEACHERS

SCHOOL REPRESENTATIVES BRIEFING

Updated JANUARY 2002 (Nov02)

FIXED TERM CONTRACTS

### **FIXED TERM CONTRACTS - RIGHTS ON TERMINATION**

A teacher like other employees works to a contract which can be brought to an end by a resignation or a dismissal by the employer. If the teacher is dismissed there are procedures and safeguards set out in the Contract of Employment and in Statute. Where a teacher is dismissed and had TWELVE MONTHS continuous service, he or she can challenge the fairness of the dismissal before an employment tribunal. *From 1/10/02 new laws under the 'Fixed Term Employees(Prevention of Less Favourable Treatment) Regulations' came into force. Details of these are available at <http://www.dti.gov.uk>*

To offer protection to people employed on fixed-term contracts, the law treats the non-renewal of a fixed-term contract as a dismissal under employment law. So a teacher on a fixed-term contract can also challenge the non-renewal of their contract if it is unfair.

The teacher is entitled to know the reason for the dismissal. He or she is entitled to have a hearing into the proposed dismissal and appeal against it. If the reason for dismissal is redundancy there must also, in the majority of cases, be formal consultation on the proposed dismissal with recognised Unions. In all cases, except those to do with conduct or competency, the law expects consultation as if the reason for dismissal were on grounds of redundancy.

These rights extend to teachers on fixed-term contracts and the Union has challenged dismissals where the procedures have not been properly followed.

#### **Some Myths Associated with Fixed-Term Contracts:**

1) A Governing Body can avoid compulsory redundancies by reducing staffing by not renewing the contracts of teachers on fixed-term contracts.

**False** The non-renewal of a fixed-term contract is a dismissal. If the reason for that non-renewal is to reduce staffing, the reason is a redundancy. If the Governors are making a redundancy, they need to ensure their procedures are followed, and are fair and non-discriminatory.

2) A teacher on a fixed-term contract cannot go to an employment tribunal if they have only been employed at the school for one year.

**False** - if the teacher has one year's continuous service (even part-time), he or she can go to an employment tribunal. If the teacher is employed in an LEA school and had a previous end-on contract in another school within the LEA, there may be sufficient service.

3) There is no need to consult the Unions if you are dismissing a person on fixed-term contract who has not got the right to go to tribunal.

**False** - Consultation should take place whenever redundancies are contemplated. The need for consultation is not dependent on the rights of the teacher selected.

## **Fixed-term contracts do not help anyone:**

The school - does not get the same range of applicants for a fixed-term contract compared with the range attracted to a permanent contract.

The teacher - is in an uncertain position and finds it more difficult to secure mortgages, etc.

The governors - will still have to follow full consultation and the correct procedures if they need to reduce the staffing of the school.

## **School Representatives should:**

1. Speak to your headteacher and let them know the NUT position.
2. Monitor the use of fixed-term contracts in your school.
3. Let the Union here in Derbyshire know if a post is being filled on a fixed-term basis outside the acceptable reasons.
4. Encourage any NUT members on fixed-term contracts to contact the Derbyshire Office for advice.

### **THE NUT'S POSITION**

The Union has had a long term policy of opposition to the use of fixed-term contracts and has campaigned for many years for an end to their misuse by LEAs and schools.

The Union regards the use of fixed-term contracts as acceptable only in the following situations:

1. to cover for teachers absent for health reasons;
2. to cover for teachers on maternity leave;
3. to cover for teachers on secondment to a course of in-service or educational training;
4. to fill a post pending a permanent appointment being made or pending an appointee taking up the post.

The Union believes that, even in these circumstances, the greater part of such needs for long term cover should be met from a permanently employed pool of teachers.

The Union is firmly opposed to the use of fixed-term contracts as a "safety measure" against future budget reductions or as a form of probation to 'check out' a teacher before giving them a permanent post.