

# Continuing (Contingent Funded) Employment

## Background

For some time now the University has been concerned at the potential loss of outstanding Academic staff as staff on fixed term contracts sought more stable opportunities elsewhere. The difficulty for the University in providing ongoing employment to staff employed on contingent research funds was the uncertain future of these particular funds. With decisions on each funding grant being made for only specific periods (1 - 5 years), it was often not possible to predict if such funding (or even the particular research) was likely to be continued beyond that period.

If these staff were appointed to a standard continuing position, the redundancy provisions of the Enterprise Agreement would provide a significant penalty to the University (which then limits our capacity to direct that money to research and education). On the other hand our academics were faced with an uncertain future, often only knew they had a new contract at the last moment and many younger academics seeking to establish themselves in Canberra are having difficulty in obtaining bank loans/mortgages because they were only in a "fixed term" position.

The establishment of a new category of employment **Continuing (Contingent Funded) Employment** provides a simple and cost neutral method to reduce the problems associated with some fixed term contract arrangements.

## How it works

A fixed term staff member appointed to a position funded by contingent funding for a period of 12 months or more, and who is to be appointed to their second consecutive contract, shall be employed on a Continuing (Contingent Funded) contract of employment. Existing staff on contracts of 12 months or more, and who are on their second (or more) consecutive contract will be converted to a Continuing (Contingent Funded) contract of employment once the Enterprise Agreement has been certified.

'Contingent Funding' is defined as limited term funding provided from external sources, but not funding that is part of an operating grant from government or funding comprised of payments of fees made by or on behalf of students.

In addition, a fixed term staff member may be appointed, at the discretion of the Dean of a College, to Continuing (Contingent Funded) employment using internal funds, where:

- the use of internal funding is for a limited period; and
- the area has a reasonable expectation that alternative contingent funding or a continuing appointment will become available; and
- the alternative would be the separation of the staff member from their position with the University.

This provision was specifically created to ensure areas could continue to engage an Academic on a Continuing (Contingent Funded) employment contract for short periods (bridging) when funding decisions are delayed and there is a reasonable likelihood that the funds would be approved (otherwise we might lose key staff).

The following provisions of the Enterprise Agreement will not apply to staff on Continuing (Contingent Funded) employment:

- where funding for continuation of a Continuing (Contingent Funded) position ceases, the consultation provisions of clause 65 (Managing change) in respect to the contingent position that staff member occupies.
- clause 74 (general notice periods) or Clause 66 (Redundancy) including payments that apply to staff employed on a Continuing contract of employment.
- staff employed on fixed term employment or employment schemes as specified elsewhere under this Agreement.

These exclusions are the same as those that apply to current fixed term staff.

Staff on Continuing (Contingent Funded) employment will continue to be employed unless notified otherwise (in accordance with clause 75) and **their contract does not require renewal** each time the contingent funding for the next period is approved.

## When contingent funding ceases

Where the funding that supports a staff member's Continuing (Contingent Funded) employment ceases:

- (a) the University may transfer the staff member to another equivalent position;
- (b) if, during the notice period in clause 75, the contingent funding for the position is renewed, the notice period ceases to apply and employment continues;
- (c) if an application for renewal of the contingent funding for the position is still pending, the period of employment may continue for any period of paid leave the staff member is entitled to and thereafter unpaid leave to retain the employment relationship until a decision on the contingent funding is made. By agreement, payment of leave may be delayed for nine weeks to facilitate continuation of service. When payment of leave is made, leave balances will be reduced accordingly. Payment of severance may be delayed for nine weeks to facilitate continuation of service, but will be paid on termination if it is agreed the staff member is not likely to be offered further employment by the University.
- (d) at the end of the notice period (and any such approved leave in accordance with the above), the employment relationship will cease and the severance payment in clause 77 will be made to the staff member.

Where applicable, staff on a Continuing (Contingent Funded) contract of employment will continue to be entitled to the same severance arrangement provided to fixed term staff.

Finally, the provision ensures that fixed term staff are not disadvantaged through the following clause.

*It is not the intention of this clause that the conditions of employment of a staff member be worse than had they been employed on a fixed term position subject to contingent funding. That is, a staff member employed or converted to Continuing (Contingent Funding) Employment would normally be engaged for the term of the funding supporting the position. Accordingly, the University shall not terminate the employment of a staff member on a Continuing (Contingent Funded) employment unless:*

- (a) the contingent funding that supports the position ceases or is insufficient; or*
- (b) the inherent nature of the work required has changed significantly and the skills and experience of the staff member will not enable them to complete the requirements of the position; or*
- (c) termination is under the probation or disciplinary provisions of this Agreement.*

## Employment type for financial institutions

Any staff member on a Continuing (Contingent Funded) contract of employment will thus be able to indicate to their financial institution (and indeed on their CV) that they hold a continuing position at the ANU or are not on a fixed term contract.

I trust that this clarifies these provisions. Should you have any questions regarding these matters please contact your local HR area.