



**APPENDIX 'E8'**

**EAST HERTS COUNCIL**

**ENDING OF FIXED TERM EMPLOYMENT POLICY AND  
PROCEDURE**

**May 2006**

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## **1. Purpose**

- 1.1 The ending of a fixed term contract is a dismissal in law. Therefore the Council's Ending of Fixed Term Employment procedure has been produced to ensure that the ending of such a contract is carried out in a fair and reasonable manner.
- 1.2 This Procedure has been produced in line with the Employment Act 2002 (Dispute Resolution) Regulation 2004, the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 and The Employment Act 1999.

## **2. Principles of the Procedure**

- 2.1 The process of ending a fixed term contract will be carried out under the statutory 3 step dismissal procedure and therefore have the right of appeal against the decision to terminate the contract.
- 2.2 The procedure will help to ensure that an employee in this situation can be kept fully informed of the situation relating to the post and the reason for termination of the contract, as appropriate. Thus misunderstandings and disputes about an individual's employment position may be avoided.
- 2.3 Managers should consult Human Resources for guidance on the use of this procedure to ensure consistency of approach.

## **3. Scope of the Procedure**

- 3.1 The procedure will apply to:
  - 3.1.1 Any employee on a fixed term contract (including all types of temporary contract) who will have accrued at least one year's continuous service with the Council (including previous continuous service with other local authorities) at the date the contract will come to an end.

3.1.2 Situations where the contract is terminated for 'some other substantial reason'.

3.2 The procedure will not apply to;

3.2.1 conduct or capability where other procedures are in place.

3.2.2 in cases of redundancy and managers should be aware of the following:

- Under the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 employees on a succession fixed term contracts totalling more than 4 years, if employed on such contracts after July 2002, will be deemed to have permanent employee status in law and therefore this procedure would not be appropriate.
- Under the Employment Rights Act 1996 after 2 years continuous employment there is an entitlement to redundancy, regardless whether the employee has a permanent or a fixed term contract.

#### **4. Record Keeping**

4.1 Human Resources will be responsible for monitoring such contracts and to provide advice but it will be for individual managers to advise whether the contract should be renewed or terminated and the grounds for non-renewal (e.g. no further funding or completion of project).

4.2 Human Resources will write to the employee on the manager's behalf advising renewal or termination of the fixed term contract.

## **5. The Statutory 3-Step Procedure**

### **5.1 Step 1 Statement of Reasons for Termination of Contract and Invitation to Meet and Discuss**

5.1.1 As soon as practical Human Resources will write to the employee explaining the reason for the non-renewal of contract and inviting them to a meeting with their manager to discuss the matter further. The letter will advise the employee of their right to be accompanied by a colleague or trade union representative.

5.1.2 The letter will ask the employee to contact their manager to set up a date to meet and will give a timescale by which they must do so. This will vary according to the circumstances of the situation but should give the employee time to consider what they want to do.

5.1.3 If the employee does not wish to meet and accepts the contract is to end, Human Resources will write to confirm that they do not wish to exercise the right to the meeting and confirm the end date.

### **5.2 Step 2 The Meeting**

5.2.1 The employee should make all reasonable steps to attend the meeting. If the employee's companion is not available on the date set, the employee should propose an alternative date within 5 working days of the date set for the meeting. If the employee fails to do so, then management will set the date and the meeting will proceed without the employee's companion if they are unable to attend.

5.2.2 The manager is obliged to rearrange the meeting once.

5.2.3 At the meeting the employee should explain why s/he does not think it appropriate to terminate the contract.

5.2.4 Following the meeting the manager should write to the employee giving his/her decision and the reasons for it. The letter should also notify the employee of his/her right to appeal against the decision, the right to be accompanied and if s/he decides to exercise this right this should be communicated to his/her manager within 5 working days.

### 5.3 Stage 3 The Appeal

5.3.1 If the employee decides to exercise his/her right of appeal, the line manager concerned should refer the matter to his/her head of service or service director (hearing officer stage 3) as appropriate and arrange an appeal meeting. This need not take place before the termination of the contract takes effect. The employee is entitled to be accompanied.

5.3.2 The employee should take all reasonable steps to attend the meeting on the date and time arranged. However, if the hearing officer stage 3, the employee or his/her companion cannot attend for a reason that could not be reasonably foreseen, a further meeting should be arranged.

5.3.3 If the postponement is due to the employee companion being unavailable, the employee should propose an alternative date within 5 working days of the date set for the meeting. If the employee fails to do so the manager will set the date for the meeting, which will proceed without the employee's companion if they are unable to attend.

5.3.4 The hearing officer stage 3 is only obliged to rearrange the meeting once.

5.3.5 After the appeal meeting, the hearing officer stage 3 should inform the employee of their final decision and the reasons for it in writing. If the decision is to uphold the termination of the contract the date of termination of contract should be included in the letter, whether or not it has already taken effect.