



Safer Recruitment Policy

1. Introduction

Government resource: <https://www.gov.uk/browse/employing-people/recruiting-hiring>

Church of England resource: <https://www.churchofengland.org/safeguarding/policy-and-practice-guidance/templates-and-resources>

Child employment: <https://www.gov.uk/child-employment>

Sportily is committed to the safeguarding of all children, young people and adults at risk, and to promoting a safe environment across all activity of the organisation. We will carefully select, train and support all those with any responsibility within the organisation, employees, workers and volunteers, in line with Safer Recruitment principles. Sportily will follow all relevant Church of England Safer Recruitment guidelines in its recruitment practices.

This means that we will:

- › Ensure that our recruitment and selection processes are inclusive, fair, consistent and transparent;
- › Take all reasonable steps to prevent those who might harm children or adults from taking up positions of respect, responsibility or authority where they are trusted by others;
- › Adhere to safer recruitment legislation, guidance and standards, responding positively to changing understandings of good safer recruitment practice;
- › Always seek advice from human resources personnel to achieve best possible practice;
- › Ensure training on safer recruitment practice guidance.

2. Recruitment needs

Those responsible for the recruitment of employees, workers and volunteers should reflect on current and future needs of the organisation and make plans to ensure that they can

recruit, train and retain the personnel that they need. Planning the recruitment and selection processes is the key to successful recruitment and helps maintain continuity.

Some questions to consider:

- What are the needs of the organisation aligned to current plans and activity?
- What are the main duties and responsibilities?
- How will the employee, worker or volunteer be supervised and supported?
- Has the nature/remit of this role changed and what are the new priorities for this role?
- Should the role be filled on a temporary, fixed term or permanent basis?
- Might the post be hard to fill and why – what could be done about this?
- How can we remove barriers to application and encourage diversity within the applicant field?

3. Recruitment process

Recruitment to all employed posts requires the authorisation of the CEO or COO who will consult with the Leadership Team and/or Board as appropriate.

Sportily operates within the Church of England Safeguarding framework and requirements and all Sportily employees, workers and volunteers are classified as 'Church officers' within this framework.

Individuals interested in volunteering can attend/visit a group/session (excluding residentials and mentoring), but not be left alone with children, young people or adults at risk, up to 4 times before then completing the volunteer recruitment process. These visits should enable a potential volunteer to determine whether they would like to apply to volunteer with Sportily. Once a potential volunteer has decided to apply to volunteer with us they must cease attending/visiting sessions until after the recruitment process is complete.

A 'Recruitment Process' document should be setup and followed for all employee, worker and volunteer appointments. Process documents exist for competitive and non-competitive processes, such as the appointment of Sessional Workers or those coming forward to volunteer. This ensures that all safer recruitment steps are followed and that a consistent process is used.

A 'Lead recruiter' should be identified within the paperwork for each appointment, they are responsible for ensuring the process is followed and documented as required.

Please speak to the COO with any questions arising throughout the process and before any deviation from it.

Adequate time should be allowed for the process of recruitment and selection.

A set of template recruitment documents for all parts of the process, for employees, workers and volunteers is available and should be used as the basis for all appointments.

4. Genuine Occupational Requirements

In very limited circumstances, employers can treat people differently if it is a Genuine Occupational Requirement (GOR) that the jobholder is of a particular religion or belief.

Sportily may require that specific posts be designated GOR posts – these are posts which carry a specific requirement for example, gender or religion. However, there are very strict legal criteria for these.

ACAS Guidance is available [here](#).

It cannot be assumed that all Sportily posts carry a GOR simply because the organisation is faith based. Appropriate consideration of each post must be shown in relation to a GOR when considering the nature of the job and the context in which it is to be carried out.

It must be shown that:

- › the discrimination is justifiable i.e. there is a legitimate aim or business need
- › the practice is proportionate to that aim;
- › there is no alternative available.

In general, it is difficult to apply a GOR if the nature of the role and the context within which it is carried out is not of sufficient profile or impact within the organisation as to affect the overall ethos of the organisation.

Roles may change over time, and it is therefore necessary to periodically consider whether the requirement continues to apply, particularly when recruiting.

When a GOR is attached to the recruitment to a particular role, Sportily must be able to demonstrate that this is justifiable, and this requirement must be made clear in the advertisement and Job Pack.

5. Recruitment of ex-offenders

Government resource: [DBS checks: detailed guidance - GOV.UK \(www.gov.uk\)](#)
[Recruitment of ex-offenders - GOV.UK \(www.gov.uk\)](#)

As an organisation using the Disclosure Barring Service (DBS) Disclosure service to assess applicants' suitability for positions of trust which are included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order, Sportily complies fully with the DBS Code of Practice and undertakes to treat all applicants for positions fairly.

Sportily undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed.

Sportily can only ask an individual to provide details of convictions and cautions that Sportily are legally entitled to know about. Where a DBS certificate at either standard or enhanced level can legally be requested (where the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended, and where appropriate Police Act Regulations as amended). Sportily can only ask an individual about convictions and cautions that are not protected.

DBS Disclosures are only requested where the role is eligible for such a check under the DBS guidelines. All adverts should be clear where a DBS is required and at what level.

Any information provided regarding an applicant's convictions, whether spent or unspent will be treated in the strictest confidence and used only in relation to the application in question.

We undertake to discuss any matter revealed in a Disclosure with the applicant before any withdrawal of conditional offers of employment. This is carried out through our Safeguarding SLA with the Diocese of Gloucester.

All those involved in this process have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.

Having a criminal record will not necessarily bar individuals from working with Sportily. This will depend on the nature of the position and the circumstances and background of any offences.

At interview, or in a separate discussion, Sportily will ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment

Sportily undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment.

6. Advertising a vacancy

All adverts must:

- Make clear that Sportily follows national Church of England Safer Recruitment guidance by including the statement: *"Sportily is committed to safeguarding and this appointment will be made under CofE safer recruitment frameworks."*;
- Highlight any essential elements of the person specification required for the role e.g. qualifications where these are appropriate;
- Clearly outline any pre-appointment checks that are required for the role;
- For employed positions: include the salary details and hours of work;
- Include the closing date and time for applications to be received by.

A Job Pack must:

- Include a role description and person specification with the essential elements of the person specification made clear;
- Make clear any Safeguarding aspects of the role;
- Confirm if a DBS is required and at what level;
- Confirm if a GOR has been identified for the post;
- Include information about the closing date, interview date and selection process;
- Include information about the salary and benefits package;
- Specify if this is a fixed term, permanent or sessional worker position and what the hours of work will be;
- Include information about the location for the work;
- Include a standard Sportily application form (which includes an Equalities Monitoring form and Confidential Declaration section).

- › Include the statement: *“Sportily is committed to safeguarding and promoting the welfare of children, young people and vulnerable adults. All post holders and volunteers are expected to share this commitment, to work within the policy and procedures of the relevant safeguarding policy and are required to attend all relevant safeguarding training. This post is subject to a satisfactory Enhanced Disclosure and Barring check. Appointment will be made under CofE safer recruitment framework.”*

A Volunteering Pack must:

- › Include a role description and person specification with the essential elements of the person specification made clear;
- › Make clear any Safeguarding aspects of the role;
- › Confirm if a DBS is required and at what level;
- › Include information about the closing date, interview date and selection process;
- › Include information about the location for the volunteering;
- › Include a standard Sportily application form (which includes an Equalities Monitoring form and Confidential Declaration section);
- › Include the statement: *“Sportily is committed to safeguarding and promoting the welfare of children, young people and vulnerable adults. All post holders and volunteers are expected to share this commitment, to work within the policy and procedures of the relevant safeguarding policy and are required to attend all relevant safeguarding training. This post is subject to a satisfactory Enhanced Disclosure and Barring check. Appointment will be made under CofE safer recruitment framework.”*

Applications must be made on a standard application form. CV’s will not be accepted.

All applications should be acknowledged on receipt.

7. Shortlisting and inviting for interview

Equalities Monitoring forms and Confidential Declarations must be removed prior to application forms being sent to shortlisting panel members.

Candidates should be shortlisted for interview based on their skills, qualifications and experience as declared within their application form. An assessment of candidates’ suitability should be carried out in reference to the requirements of the job description and the person specification criteria.

Unsuccessful candidates should be informed that they have not been selected.

A clear record of shortlisting assessments and meetings should be kept.

Unsuccessful candidates are entitled to ask for feedback as to why they were not shortlisted. This should be provided by the Lead recruiter.

8. Interviews

Lead recruiters, who act as the Chair of the interview panel, will need to ensure that they have:

- › booked a suitable venue for the interviews;

- a confirmed interview panel (offering a balance of gender, knowledge and experience and a minimum of 2 people, ideally 3);
- reviewed the Confidential Declaration forms of all candidates so that any questions of clarification may be asked during the interview (only the Lead recruiter should review these documents).
- ensured that at least one member of the panel has completed Unconscious Bias
- ensured that everyone on the interview panel has undertaken Safer Recruitment training;
- made appropriate adjustments for candidates requiring assistance.

For Board appointments interview panels should include the Chair of the Board or a nominated deputy.

For Leadership Team positions interview panels should include a member the Board.

For employee and worker positions interview panels should include the line manager for the role.

For volunteering positions interview panels should include the supervisor for the role and if that person is not an employee or worker then an employee or worker must be present on the panel.

The other positions on the interview panel should be made up of other representatives of the charity – employees, workers, volunteers and Board members.

‘Friendly outsiders’, who are not current employees, workers, volunteers or board members may be present on interview panels, but they may only be there as a stakeholder, have no hiring responsibilities and can only act in an advisory capacity on appointments to the charity.

Interview panel members should not be related to, or close contacts of those being interviewed. Any associations should be declared upfront, and the Lead recruiter should decide whether or not to replace that panel member. Lead recruiters should seek advice from the COO if required.

In order to structure the interview professionally, a set of questions to be asked should be prepared, a set of template questions is available to be adapted appropriately for the role being recruited to.

Questions should be designed to help the candidate give of their best and show examples of potential. Closed questions (i.e. Yes/No answers should be avoided).

The interview process may also include meeting other members of the team, carrying out a set task, delivering a presentation or other relevant activity. In some instances it may be appropriate to hold a second round of interviews with a smaller number of preferred candidates.

In most recruitment processes questions which may not be asked, unless a related Genuine Occupational Requirement has been identified for the role, include those relating to a person’s:

- marital status/personal circumstances
- child care responsibilities
- race, beliefs, religion, ethnicity
- sexual orientation

› age

These may be challenged and may lead the candidate to believe that they are being discriminating against.

Appropriate questions should always be asked where a role has responsibilities/remit for working with children, young people, adults at risk, or other vulnerable groups.

Appropriate questions may be asked about a person's disability only if this has been declared – and only around the reasonable adjustments that they may need to support them in the post. An employer is legally required to consider making reasonable adjustments for people with a disability applying for jobs and for those in employment who subsequently acquire a disability. If in doubt consult the COO.

Sportily will offer to pay reasonable travel expenses for candidates attending employment interviews and a claim form should be sent to candidates when they are invited for interview.

If following interview, there are two candidates of equal merit who could do the job as advertised, interview panels may select one candidate based on a protected characteristic. Interviewers cannot select a less suitable candidate just because they have a protected characteristic.

This can only be done when it is reasonably felt that there is under representation in the organisation and candidates with certain protected characteristics cannot routinely be favoured. Government guidance can be found here: [Employers: quick start guide to positive action in recruitment and promotion - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/employers-quick-start-guide-to-positive-action-in-recruitment-and-promotion)

Candidates who are not successful at interview may ask for detailed feedback, or potentially legally challenge the decision not to appoint them. It is therefore important that accurate notes are made by interviewers and that these notes are collected by the Lead recruiter at the end of the interviews and kept as a record. It is usual for unsuccessful candidates to seek feedback as to why they weren't successful on the day. This is important as constructive feedback will help them in their professional development – however care must be taken here to ensure that feedback isn't subjective.

9. Right to work

Right to Work - <https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>

9.1 Legislation

The law on preventing illegal working is set out in sections 15 to 25 of the Immigration, Asylum and Nationality Act 2006 (the 2006 Act), section 24B of the Immigration Act 1971, and Schedule 6 of the Immigration Act 2016.

Sportily, in common with all employers in the UK has a responsibility to prevent illegal working. This is done by conducting right to work checks before a person is employed, to make sure the individual is not disqualified from carrying out the work in question by reason of their immigration status.

From 1 July 2021, EEA citizens and their family members require immigration status in the UK. They can no longer rely on an EEA passport or national identity card, which only

confirms their nationality, to prove their right to work. They will be required to provide evidence of lawful immigration status in the UK.

Irish citizens continue to have unrestricted access to work in the UK. From 1 July 2021, they can prove their right to work using their Irish passport or Irish passport card, or their Irish birth or adoption certificate together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer.

9.2 Sportily Practice

All candidates, invited to interview will be required, in accordance with Right to Work in the UK requirements, to provide suitable evidence of their right to work in the UK and Sportily will carry out right to work checks and retain copies of documents for successful applicants.

There are two types of right to work checks: a manual document-based check and an online check. It is Sportily's usual practice to carry out a manual right to work check wherever possible.

9.3 Conducting a manual document-based right to work check

There are three steps to conducting a manual document-based right to work check. All three steps are completed before employment commences.

Step 1: Obtain Documents

Sportily obtains for review original documents from either List A or List B of acceptable documents listed at Appendix A to this Policy. This list can be viewed [here](#). Usually this shall be achieved by asking candidate to bring documentation with them to interviews. Any documents that are sent to Sportily by post shall be returned to the sender using recorded delivery, however Sportily accepts no liability for documentation being lost by the postal service.

Step 2: Check Documents

Sportily checks that the documents are genuine and that the person presenting them is the prospective employee or worker, the rightful holder and allowed to do the type of work we are offering. The following must be checked:

1. photographs and dates of birth are consistent across documents and with the person's appearance;
2. expiry dates for permission to be in the UK have not passed;
3. any work restrictions to determine if they are allowed to do the type of work on offer
4. the documents are genuine, have not been tampered with and belong to the holder; and
5. the reasons for any difference in names across documents can be explained by providing evidence (e.g. original marriage certificate, divorce decree absolute, deed poll). These supporting documents must also be photocopied and a copy retained.

Step 3: Copy Documents

Sportily makes a clear copy of each document in a format which cannot manually be altered (for example, a photocopy or photograph) and retains the copy securely: electronically or in hardcopy.

We also retain a secure record of the date on which the check was made within our recruitment process record. If the person carrying out the check writes a date on the copy document, they also record that this is the date on which they conducted the check.

Copies of the following are taken and retained:

1. Passports: any page with the document expiry date, the holder's nationality, date of birth, signature, leave expiry date, biometric details, photograph and any page containing information indicating the holder has an entitlement to enter or remain in the UK (visa or entry stamp) and undertake the work in question (the front cover no longer has to be copied).
2. All other documents: the document in full, including both sides of a Biometric Residence Permit, Application Registration Card and a Residence Card (biometric format).

All copies of documents taken are kept securely for the duration of the worker's employment and for two years afterwards. The copy is then securely destroyed.

9.4 Conducting an online right to work check

An online right to work check can be carried out by using the online service: 'View a job applicant's right to work details' : <https://www.gov.uk/view-right-to-work>

9.5 EEA citizens granted status under the EU Settlement Scheme (EUSS)

From 1 July 2021, the majority of EEA citizens will prove their right to work using the Home Office online right to work service. Those who have made a successful application to the EUSS will have been granted their immigration status digitally and can only prove their right to work using Home Office online service 'prove your right to work to an employer' available on GOV.UK: <https://www.gov.uk/prove-right-to-work>.

To prove their right to work from 1 July 2021, individuals will provide a prospective employer with a share code and their date of birth which will enable the employer to check their Home Office immigration status via the online service available on GOV.UK: <https://www.gov.uk/view-right-to-work>.

If an EEA citizen has been granted 'Settled Status' by the Home Office, they will have a continuous right to work, in the same way as someone with Indefinite Leave to Enter / Remain status.

If an EEA citizen has been granted 'Pre-Settled Status' by the Home Office, they will have a time-limited right to work and you must carry out a follow-up check. The Home Office online service will advise when a follow-up check must be carried out.

10. Offers, references and checks

It is important that applicants are told the outcome of any interview as soon as possible, or the reason for a delay explained. The speed at which an applicant can be informed will vary

according to circumstances, but it is important to be sensitive to the effect of any delay on applicants.

Verbal offers of a post can be made as - 'an offer subject to satisfactory references and clearance' - by the Lead recruiter after the process.

References will always be taken up in writing – if telephone references are taken, notes must be made as these will all be put on the person's personnel file. (Under legislation employees and workers have a right to ask to see their files).

Successful candidates will be asked to provide paperwork for a DBS check where this is required – this is undertaken through the Gloucester Diocesan Safeguarding Department. Records of checks and re-checks will be maintained separately from personnel records.

An Offer Letter will be sent to successful candidates which will include:

- a request for any other documentary evidence required e.g. driving licence, work permits etc;
- details of any probationary period;
- details of the official start date which can be negotiated between candidate and the line manager/supervisor of the post.

11. Remuneration of employees and workers

Sportily is a Real Living Wage employer, therefore the rate set by the Living Wage Foundation shall be the minimum offered to all those aged 18+.

As no LWF rate is set for under 18's, those aged 16-17 shall be paid the proportionate difference between the Living Wage Foundation rate and the National Minimum Wage rate for 18-year-olds, applied to the National Minimum Wage for 16-17's.

12. Remuneration of 13–15-year-olds

Those aged 13-15, may be remunerated appropriately for work undertaken for Sportily. This might include refereeing sports matches under the supervision of a Sportily employee, worker or volunteer.

Those under the age of 16 do not pay National Insurance, so only need to be included on payroll if their total income is over their Personal Allowance.

Timesheets will be used and approved by line managers for any payments to those aged 13-15 to enable tracking of payments.

Sessional Workers Policy

1. Introduction

Government resource: <https://www.gov.uk/employment-status/worker>

Sportily operates a 'bank' system of workers who support our work on an ad hoc basis. This is open to those aged 16+, recognising our investment in young leaders.

Workers on these agreements have the flexibility to undertake work with Sportily, when it is available and when it is convenient for them. Sessional workers have other jobs and/or caring and other responsibilities and who are happy to carry out occasional work as a supplement to their other roles and responsibilities rather than as a sole source of income.

Sportily is committed to operating an ethical 'bank' system for sessional workers and ensuring that those who work with Sportily in this way are afforded the same support and respect as our other employees.

2. Recruiting sessional workers

Recruitment of sessional workers will follow the Safer Recruitment process as described in this policy and all the usual training, policy adherence and procedural requirements will apply.

Candidates must be made aware of, and show that they understand, that the post is a sessional worker's post. No commitment to a certain number of regular hours may be made to the Sessional worker during the employment process.

There must be complete transparency from the start, included in the Job Pack, regarding what is on offer. This must include a statement confirming that workers are completely free not to take work when it isn't convenient to them, without there being any penalty for this.

3. Contractual status

Under Sportily Sessional Worker agreements there is no "mutuality of obligation" i.e. there is no obligation on the part of Sportily to offer or provide work to individual or on the individual to accept any work so offered.

The rights, terms and conditions for Sessional workers are detailed within their Sessional Worker Agreements.

4. Probation and line management

Sessional workers will be allocated a named line manager within Sportily. This person will act as the first point of contact for each worker and will also offer professional oversight and support.

Due to the nature of working flexibly and potentially infrequently as part of the Sportily Bank, no formal probationary period is attached to recruitment to the role.

Within their first six months as a Sportily worker, and following any period longer than 6 months when the worker hasn't delivered any work for Sportily, the allocated line manager will carry out an observation of the worker during a session and provide feedback.

Further observations, feedback and support conversations will take place with the line manager throughout the workers time with Sportily. These will be proportionate to the amount of work undertaken by the worker.

5. Remuneration

Pay shall be made on an hourly rate basis. Sessional workers may not claim for time spent travelling to the location of their work.

Timesheets must be completed by Sessional workers and approved by the appropriate line manager before payment is made on the usual payroll date for the organisation. Timesheets will need to be received and approved 10 days before the payroll date in order to be included in that month's payroll.

Sportily is a Real Living Wage employer, therefore the rate set by the Living Wage Foundation shall be the minimum offered to all those aged 18+.

As no LWF rate is set for under 18's, those aged 16-17 shall be paid the proportionate difference between the Living Wage Foundation rate and the National Minimum Wage rate for 18-year-olds, applied to the National Minimum Wage for 16-17's.

Sessional workers will accrue annual leave, but because they only work when required and agreed, it is difficult to give annual leave in the normal way. Therefore, an additional 17.1% is paid on top of the hourly salary, as detailed in the Sessional worker agreement. This is a pro rata calculation of the annual leave, Public and Bank Holiday entitlement of full-time employees. It is the responsibility of the Sessional worker to inform Sportily of when they will be on leave and unavailable for work.

Any universal salary increases (such as cost of living increases) applied to permanent employees will be applied to all workers on Sessional worker agreements.

Sessional workers may claim expenses, including travel expenses to the location of their work in the usual way according to the Expenditure and Expenses Policy.

6. Pensions

Those employees on Sessional worker agreements are 'workers' for the purposes of auto-enrolment and are assessed for eligibility alongside the rest of the workforce. Due to having potentially widely fluctuating earnings, zero hours workers are more likely than others to change eligibility categories for the purposes of the auto-enrolment duties.

For example, an increase in earnings in a pay reference period may result in a worker changing from being a non-eligible jobholder (who is entitled to opt into an auto-enrolment scheme) to an eligible jobholder (who must be auto-enrolled). Earnings of those on Sessional Worker contracts are therefore monitored and assessed at each pay reference period.

Those on Sessional worker agreements will be automatically enrolled in the same way as other employees if they earn more than, £192 a week, £833 per month or £10,000 a year (currently) and meet the other joining conditions.

7. Sickness and absence

If a Sessional worker has accepted an offer of work but is subsequently unable to work the hours agreed, they must notify their nominated line manager of the reason for their absence as soon as possible before they are due to start work on the first day of absence.

If the Sessional worker satisfies the qualifying conditions laid down by law, they will be entitled to receive statutory sick pay (SSP) at the prevailing rate from the fourth day which they were assigned to perform an assignment but were unable to do so due to illness in incapacity (the qualifying day). SSP will only be payable in respect of days where assignments have been arranged, and workers will not be entitled to any other payments from the charity during such period.

8. Rights for the worker

In line with the Regulations, any worker who believes they are being less favourably treated has the right to ask for a written statement setting out the reasons for the treatment they believe has occurred – the manager must reply within 21 days. Advice should be sought from the COO as required.

Fixed Term and Temporary Contracts Policy

1. Introduction

Government resource: <https://www.gov.uk/fixed-term-contracts>

Government resource: <https://www.gov.uk/agency-workers-your-rights>

Recruitment leads may decide that a post is only required for a fixed period of time. The decision for this must be justified and can in employment law only be due to:

- › the short term nature of the work (a particular short term project or piece of work) which will come to a natural end

- › grant funding that will come to an end at a given period of time
- › cover for an absence (e.g. long term sick leave, maternity leave, special absence etc).

This policy applies to the recruitment of those aged 16+, recognising that Sportily is committed to investing in young leaders and for example, operates summer – fixed term, employment schemes linked to our Young Leadership Development Programme.

2. Contractual status

Under the Fixed-term Employees (prevention of less favourable treatment) Regulations (2002). All employees on Fixed Term contracts are included in this policy as Fixed Term employees must not be treated less favourably than comparable permanent employees on the grounds that they are only employed on a fixed term basis, unless this can be objectively justified.

It is therefore important that Fixed Term contracts are used appropriately. Fixed Term Contracts will always have a specific end date.

No notice period is required for a Fixed Term appointment when it is running to the initial set date. However, if an appointment is to be terminated prior to the initial set date, then notice periods as set in the contract will be given.

All offer letters will clarify that there should be no expectation of the renewal of a contract at the end of the fixed term period.

3. Recruiting to a fixed term post

Recruitment to fixed term posts will follow the Safer Recruitment process as described in this policy and all the usual training, policy adherence and procedural requirements will apply.

Candidates must be made aware of, and show that they understand, that the post is a Fixed Term post, for how long, the reason(s) why along with any arrangements in place where a post is covering for a permanent employee.

Fixed Term Regulations require employers to offer access to the occupational pension scheme on the same basis as permanent employees (there may be exceptions to this – the COO can offer further advice).

Any universal salary increases (such as cost of living increases) applied to permanent employees will be applied to all employees on fixed term contracts.

4. Remuneration

Sportily is a Real Living Wage employer, therefore the rate set by the Living Wage Foundation shall be the minimum offered to all those aged 18+.

As no LWF rate is set for under 18's, those aged 16-17 shall be paid the proportionate difference between the Living Wage Foundation rate and the National Minimum Wage rate for 18-year-olds, applied to the National Minimum Wage for 16-17's.

5. Reviewing, extending, authorising - fixed term contracts

Under the Regulations, successive fixed term contracts are defined as 'a series of two or more contracts that do not break continuity of employment', as defined by the Employment Rights Act 1996).

Where a Fixed Term contract is to be extended this will be for a further defined period, with the reasons and new date explained and agreed.

The Regulations also include provision to prevent abuse arising from the use of successive fixed term contracts. Sportily has adopted the statutory scheme which provides for no limit on the length of the first fixed term contract.

However, where the employee is re-engaged on a successive contract, their post will be deemed a permanent contract once the employee has completed four year's continuous service. Line managers are reminded that once a contract has run for a minimum of two years, the employee has automatic access to statutory redundancy rights and also note that after one year's service employees are entitled to claim for unfair dismissal.

Where funding for a post has been made permanent and the employee in the current fixed term post has proved satisfactory for a minimum of two years – they may be made permanent.

6. Ending a fixed term contract

Whilst a Fixed Term contract can be ended at the end of its original set date all expiries or non-renewals for Fixed Term contracts are regarded in law as dismissal and so in order to end the contract it is necessary for there to be a clear and justifiable reason for the non-renewal of the contract e.g. where work comes to an end, OR where someone on maternity leave is to return to work.

Caution should be taken to ensure process is duly followed as failure to follow the statutory process (below) can render a dismissal automatically unfair.

The process for formally dismissing an employee on the expiry/non-renewal of a Fixed Term contract comprises the Statutory Disciplinary and Dismissal 3-step Procedure:

1. The employee should be consulted about the proposal to terminate with reason(s).
2. The manager offers the employee the opportunity to attend a consultation meeting (the employee has the right to be accompanied by a workplace colleague) where the proposal and reasons for the termination are given, other issues may be discussed e.g. redundancy payment (see 8). At the end of this meeting the employee should be formally informed of the decision and that they have the right of appeal against the decision prior to the expiry of the contract – an appeal must be sent to the COO within 5 working days of the termination being confirmed.
3. The COO will arrange for an appropriate member of the Leadership Team (not the manager involved) to hear/chair the appeal. The employee may again be represented by

a workplace colleague. Following this meeting the final decision will be confirmed by the chairperson within 5 working days.

Sportily has an obligation to both inform Fixed Term employees of any permanent vacancies as their contract progresses, and to inform of any 'suitable alternative employment' available – and if there is genuinely none available and the 3-step process has been followed carefully, the contract will terminate.

Where an employee on a fixed term contract is on maternity leave

The procedure for ending a fixed term contract where the employee is on maternity leave is no different for a person who is at work (the decision here to terminate must not be for reasons linked to the maternity as this would amount to direct sex discrimination).

NB there is no entitlement for redundancy payments for those covering maternity leave as the work will continue.

Notice periods

If the contract is to terminate on the specified date the process for notification/consultation and decision/appeal, should begin one month before the end of the contract.

If the contract is to terminate earlier then the appropriate statutory or contractual notice must be given.

Redundancy

The employee will only be entitled to a redundancy payment at the expiry/non-renewal of a fixed term contract if:

- › they have 2 years continuous service;
- › they meet the statutory definition of redundancy (i.e. where the requirements to carry out work of a particular kind has ceased or diminished).

7. Rights for the employee

In line with the Regulations, any employee who believes they are being less favourably treated has the right to ask for a written statement setting out the reasons for the treatment they believe has occurred – the manager must reply within 21 days. Advice should be sought from the COO as required.

8. Agency workers

Only the CEO or COO may authorise agency support for emergency and short-term reasons eg. where no other cover is available.

The Agency Workers Regulations afford equity rights and treatment to temporary agency staff. After a qualifying period (12 continuous weeks in the same role), their basic terms and conditions of employment must be no less favourable than the terms they would have been entitled to had they been hired directly by the organisation for which they are working.