

**Opinion of the Confidential Adviser on Individual Legal Status on flexible
employment relationships at the UvA**

January 2016

R. Koopman

Opinion on flexible employment relationships

In June 2015, the Executive Board of the University of Amsterdam (UvA) offered every employee the opportunity to seek a binding opinion from the Confidential Adviser on Individual Legal Status (VIR) on whether the employee had been treated fairly in terms of his temporary employment relationship with the University. In addition to these individual opinions, the VIR was asked to issue a non-binding opinion on the policy to be pursued in relation to flexible employment. A number of points emerged from the interviews conducted with the individual employees which these individual employees believe to be sticking points. The input provided is important for the opinion on the policy to pursue in relation to flexible employment. The opinion therefore consists of two parts:

- brief feedback from the interviews conducted with members of staff;
- recommendations on the policy to pursue.

Feedback from individual interviews

Altogether, 34 individual interviews were conducted with the VIR. While it is impossible to speak of a representative picture, given the limited number of interviews with the VIR, we nevertheless get an impression of how those concerned are feeling. Most of the complaints came from people in the lecturer 4 position. In the interviews conducted with the VIR, the persons concerned said that they are required to leave once the maximum term for temporary employment has elapsed, even if there is still plenty of work and he or she is doing his or her work well. The fact that people have sometimes been employed temporarily for a long time and that a fixed-term university appointment has then been offered for a limited number of hours has also led to much dissatisfaction. The persons concerned also sometimes feel disadvantaged compared to members of staff employed by the University. For example, certain facilities are not available to them and there is no preparation time for lectures. Staff employed by the University do have access to such facilities. There were also several complaints about the lack of training opportunities. For example, some lecturers were not allowed to obtain a university teaching qualification because they only give tutorials and do not develop any courses. The lack of facilities for preparing for another job, inside or outside of the University, was also frequently mentioned as a sticking point. The lack of training opportunities was also identified in the report by the Amsterdam Institute for Advanced Labour Studies (AIAS) (p. 52). The lack of appreciation for, e.g. the extra duties that people perform unpaid, and the undervaluation of education came up in nearly every interview. Some lecturers feel that the emphasis is too much on research. A career aimed primarily at education ought to be an option, according to some. The lack of prospects, however, seems to be one of the main complaints. Limited access to the housing market, because people are spending a long time in temporary employment, was also mentioned in about half of the interviews conducted. This point is certainly key for those people wanting to start a family.

Opinions

On the basis of the interviews conducted with employees, I have arrived at the following recommendations which can be worked out in more detail.

1. Offer prospects

The lack of prospects appears to be the main complaint of staff, in particular those employed in the lecturer 4 position.

Offer prospects in one form or another. This could be, for example, the prospect of a permanent appointment if conditions specified in advance are met. Or, offer the possibility of obtaining a doctorate or developing in some other way to enable the employee to enhance his or her position in the internal or external labour market.

Bring the existing regulations regarding training to the attention of personnel officers and staff. The current policy aimed at long-term employability appears to be used too little and could be extended to increase opportunities in the internal or external labour market.

2. Formulate an appointment policy for the entire University

The University is a single legal employer. Good employment practices and the equality principle mean that equal cases must be treated equally. This implies that, in principle, a University-wide appointment policy should be formulated. Departures from this policy must be justified by special circumstances in a faculty or department.

3. Do not seek out the 'edges' of the law and the Collective Labour Agreement

Compliance with the letter, but not the spirit, of the Collective Labour Agreement for Dutch Universities (CAO NU) results in discontented employees. One example is interrupting an appointment for a period of six months and a day in order to be able to start a new chain of fixed-term appointments. This construct is entirely in keeping with the letter of the CAO NU. However, it is seen by staff as a deliberate evasion of the legal status.

4. Grant a permanent appointment in the case of structural work

In the case of proven suitability, adopt the basic principle that a permanent appointment will be granted in the event of structural activities. In those cases where this is not reasonably possible, it is up to the CAO NU parties to make agreements about this.

5. Communicate clearly

Staff are usually appointed for a fixed term. There may be perfectly good reasons for a fixed-term appointment, such as a probationary period, sickness replacement, temporary funding, a temporary increase in demand for education or a doctoral research project. Often, however, no reason is given for granting a fixed-term appointment.

- When the appointment is made, provide reasons as to why it is a fixed-term appointment.
- State clearly what the employee must do to qualify for a permanent appointment.
- Also state clearly at the initial appointment if limiting the length of stay in the job is desirable by definition, or if the work is clearly of a temporary nature.

6. Intensify the redeployment policy

Intensify the support for finding other work if a decision is made to discontinue the appointment. In this way, the person concerned is offered greater prospects and the burden of unemployment benefits for the institution is limited. For people whose temporary appointment expires, I would like to recommend full support in finding other work. Various large companies charge outplacement agencies with looking for other work for staff who will become redundant during a reorganisation. ProActief could play a larger role. I would like to advocate for an outplacement agency that also has contacts with business, industry and public authorities, for example.

7. See whether career paths aimed more at education are possible and whether lecturers can work in higher education with an applied emphasis

The link between education and research makes a university unique. Some lecturers, however, have a greater affinity with education than research. Perhaps career paths can be considered in which the emphasis is placed on education. Not all good lecturers are suited to a career in research. Perhaps these lecturers can also be deployed to very good effect in higher education with an applied emphasis.