

# Equality Act Review Policy Briefings

To inform Government and Parliamentary Debate

## “Two-Year Service” rule exacerbated through precarious contracts, breaches Equality Laws

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### Background

The government introduced the two-year service rule in 2012, which required employees to work for a period of two years before they can qualify for full employment rights (Morse: 2019).

Many employers are using temporary and fixed term contracts which expire before the two-year period. In 2022, almost **1.5 million people were in temporary employment** (Gov: 2022) which usually do not have an end date but can end at a moments notice. While the government does not provide a breakdown figures for those on fixed-term contracts, the TUC stated **3.7million were in insecure work** which included agency, casual, seasonal, and zero-hours contracts (Sharp: 2019). Sector specific data is available for industries such as academia, where fixed term contracts and causal employment is rife. The UCU found **33% (77, 445) of all academic staff were in fixed-term contracts** (UCU: 2023). A further **4,410 were on zero hour contracts** and **31,630 were on hourly paid contracts**.

**BAME staff are significantly more likely to be on fixed-term contracts** than white staff (UCU: 2021, 15). The TUC found that **Black, Minority and Ethnic women are three times more likely to be on short term contracts**, including zeros hour contracts than white men (Klair: 2023). This means that BAME employees are more likely to be unable to qualify for full employment rights due to constantly being on fixed term-contracts that expire before the two year service period. Within the university sector, staff on fixed term contracts are “...frequently treated as **marginal**

**second class citizens...**” (Ackers and Oliver: 2007, 71).

### Breaching Equality Policy

Workplace equality policies such as those published by Oxford University (Oxford University: 2020) state that employees will not face barriers to progression or discrimination based on any number of protected characteristics, and be offered opportunities for development. However, employees in temporary, fixed-term or zero hour contract employment will more than likely fall below the two-year service threshold and therefore, **fail qualify for ‘priority candidate status’** when applying for vacancies within the organisation. Fixed-term and casual employees are therefore **locked out of more secure job opportunities** often despite their qualifications, experience, and talent, leading to their **high disposability**. Many employers will cite the ‘two-year service’ rule to justify their lack of extending priority candidate status, thereby **cancelling out any ‘equal opportunity employer’ claims**.

In this way then, both **organisational equality policies and the Equality Act 2010 are breached**, particularly for Black, Asian, Ethnic persons, women, and persons with disabilities who are already overrepresented in such precarious employment, and underrepresented in permanent employment within organisations. Within academic settings, **Black, Asian, Ethnic persons and women are severely underrepresented at the lectureships and professorship levels**, a denial of priority candidate status as a result of a lack of fulfillment for two-year service **perpetuates a vicious cycle that sustains a lack of diversity**.

The two-year service policy is therefore not only allowing the continued casualisation of the work force, but also **enables a loophole for**

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## organisation to avoid adhering to equality laws.

Already marginalized groups of employees are prevented from accessing opportunities and being considered for secure employment as they are **denied priority candidate status, otherwise available to longer-serving or permanent staff who are more likely to be white.**

Such hierarchization of employees in organisations can have detrimental impact on the diversity in the workplace (Charles: 2022), the loss of talent, and mental health impacts for employees (Wilson and McDaid: 2022). In particular, it has been found that insecure employment is as detrimental on mental health of employees, as unemployment itself (Hannerz: et.al. 2022).

## Recommendations

- The government should abolish the two-year service period.
- All BAME, women, disabled, candidates should be considered for priority candidate status irrespective of length of service when applying for advertised positions at the same organisations they are insecurely employed.
- The government should ask all industries, to prioritise Equality laws over employment service periods.

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