How to use the Model Contract of Employment for Locum Clerks

Introduction
You should draw up a contract between your Council and your locum to avoid difficulties arising during the employment period. To assist you a model locum contract and guidance notes have been made available. This should be completed and signed by the Locum and a nominated representative of the council on or before the first working day.

The Model Contract for Locum Clerks has been produced by SLCC to be used by councils who need the temporary services of a Locum Clerk. It is based on the 2011 model contract which was jointly prepared by the National Association of Local Councils and the Society of Local Council Clerks.

The 2011 model contract and 2012 Locum Clerk version are consistent with current employment legislation and contains changes made to the National Agreement on pay and conditions of services (the Green Book) as issued by the National Joint Council for Local Government Services (NJC).

This document:
1) describes and explains each clause in the model contract;
2) highlights the information which is specific to the parties;
3) signposts sources of other helpful information.

CONTRACT OF EMPLOYMENT:

For information on the main terms and conditions of any employment contract see the National Training Strategy (NTS) publication “Being a good employer – a guide for parish and town councillors” – p.19.
1. **Commencement Date**

   The first day of employment.

2. **Employment Status**

   Whether this role is fixed term or permanent. It is useful to mention the reason for the fixed term nature of the role e.g. Maternity Leave cover to ensure that the parties both understand the basis of the Locum arrangement.

3. **Continuous Service**

   Previous service with a public sector employer may count for calculating entitlement to the benefits which increase with service. For short-term and fixed term Locum arrangements a council may decide not to award any extra service but previous service in the sector should be considered should the Locum arrangement become a permanent arrangement. Further information in respect of continuous service can be accessed from the Local Government Employers’ (LGE) website (www.lge.gov.uk) using the following weblink
   www.lge.gov.uk/lge/core/page.do?pageId=119733#contents-1

4. **Conditions Of Service**

   The model contract terms and conditions are based on the National Joint Council for Local Government Services National Agreement on Pay and Conditions (the Green Book). The Green Book is a lengthy document (290 pages). A printed version of the Green Book and any updates are available to councils who are members of LGE. Councils who do not subscribe to LGE may purchase an electronic copy of the Green Book but would not receive any subsequent updates to it. NALC and SLCC provide advice on the Green Book and changes to it. Councils that wish to purchase an electronic copy of the Green Book should contact LGConnect on (020) 7187 7373 or email info@local.gov.uk if they wish to order an electronic copy. This will cost £57.31.

   Green Book FAQs can be accessed from the LGE’s website using the following weblink
   http://www.lge.gov.uk/lge/core/page.do?pageId=119177#contents-1

   The model contract forms part of the 2004 National Agreement on Salaries and Conditions of Service of Local Council clerks in England and Wales (the National Agreement). The National Agreement has as its foundation in the Green Book with some specific provisions relevant to local councils. The National Agreement is available from both NALC’s and SLCC’s websites.
5. **Job Title**

For example, Clerk, Executive Officer, Chief Executive, Head of support services, Office Manager, Town Manager, Responsible Financial Officer or Assistant Clerk. This is not an exhaustive list.

6. **Job Duties**

The job description should be provided during the recruitment process to all candidates. It should also be attached to the contract of employment. See the NTS publication “Being a good employer – a guide for parish and town councillors” – p.10.

If the job description changes, the employee should be provided with an amended job description.

7. **Declaration of Other Employment**

A full-time employee would not normally be able to undertake other employment. Councils expect employees to avoid other employment which may create conflicts of interest. A Locum should be asked to provide evidence of other work relationships and indicate that there should not be conflicts with responsibilities/availability.

8. **Place of Work**

8.1 If working from the Council’s premises, the employee’s normal place of work is the Council’s office. If the venue(s) for Council meetings and meeting the public are different, these addresses should also be listed. OR

8.1 If working from home, the employee’s normal place of work is his/her home. The addresses for the venue(s) for Council meetings for meeting the public, should also be listed.

9. **Salary**

Salaries are in accordance with the salary point(s) set at in the National Agreement. A ‘single point’ salary is sometimes referred to as a ‘spot salary’. The salary of a part time employee is calculated by reference to the normal 37 hour week (clause 13) applicable to a full time employee.

In is common for Locum Clerks to attract a higher hourly rate than a permanent employee due to the experience and skills they bring to the role, Locum posts also usually attract a salary premium because of their temporary nature. Locums might expect to be paid between 25% and 50% more than a permanent employee particularly on short term contracts of less than 12 weeks. This is particularly true for part-time clerking roles. The premium over the normal rate of pay may also reflect a loss of pension rights which a Locum may suffer and may include an element of rolled up holiday pay (see clause 15).
As an Office Holder the Clerk’s position, whether it is undertaken by a permanent or interim (Locum) resource is subject to PAYE under HMRC rules.

10. Expenses

If the locum has to travel any significant distance to perform their duties it is appropriate to pay mileage or other travel expenses,

Councils should have a policy for dealing with mileage and other expenses claims.

Employees who work at home incur additional expenses that should be dealt with in the Council’s expenses policy.

11. Working From Home – Insurance

Irrespective of where an employee works, if the public or others attend for Council business, it is the Council’s responsibility to ensure that there is public liability insurance, employer’s liability insurance and fidelity insurance cover (under section 114 of the Local Government Act 1972).

Clause 11 deals with the additional costs which may be incurred by an employee if his/her home is used as an office.

Clause 11 is not applicable if an employee is working in Council premises.

12. Appraisal

Appraisals are not usually carried out for short term e.g. less than 3 month Locum assignments but are good practice and beneficial for both parties in the longer assignments.

For information on appraisals see the NTS publication “Being a good employer – a guide for parish and town councillors” – ps. 30-31.

The Advisory, Conciliation and Arbitration Service’s (ACAS) website (www.acas.org.uk) has further information. ACAS’s publication “How to manage performance” gives guidance about how to prepare for and hold an appraisal. This can be accessed using the following weblink http://www.acas.org.uk/CHttpHandler.ashx?id=2714&p=0

13. Hours of Work

The contract should state total normal weekly hours (maximum 37 hours) and the work pattern – start times, finish times, lunch period. For part time staff, the contract should also state the days worked.

14. Additional Hours
Under the Green Book and NALC:SLCC Model Contract employees up to salary point 28 have an entitlement either to be paid for approved additional hours or to take agreed time off in lieu; grades above salary point 28 may take agreed time off in lieu (TOIL) at the discretion of the Council. Taking TOIL can become problematic for short-term Locum assignments so it is more usual for overtime to be paid, subject to council approval.

15. **Annual Leave**

Taking holiday during an intense locum assignment can often be difficult so it is sometimes advisable to treat the holiday as “rolled up” and pay the value of the accrued leave within the hourly rate, or at the end of the assignment. This needs to be agreed by both parties.

16. **Sickness Absence**

Councillors should have a sickness absence policy.

ACAS’s publication “Managing absence and employee turnover” includes a sample sickness policy. This can be accessed using the following weblink [http://www.acas.org.uk/index.aspx?articleid=1183](http://www.acas.org.uk/index.aspx?articleid=1183)

17. **Sick Pay**

Information on SSP is available from HMRC’s website using the following weblink [http://www.hmrc.gov.uk/helpsheets/e14.pdf](http://www.hmrc.gov.uk/helpsheets/e14.pdf)

18. **Maternity /paternity /adoption leave**

Employees have statutory entitlements to maternity, paternity and adoption leave. For information see the NTS publication “Being a good employer – a guide for parish and town councillors” – ps. 21-22

19. **Injury or Assault**

The employee or his or her dependants can receive up to 5 year’s gross pay or £35,000 whichever is the greater.
20. **Pensions**

At present, the only pension scheme that local councils can make contributions to is the Local Government Scheme (LGPS). Unlike principal authorities, participation is discretionary for parish and community councils. From October 2012, local councils will be able to join other contributory schemes when a statutory requirement to enrol employees in schemes that provide a minimum pension entitlement is phased in. From 2015, when the Pensions Act 2008 and other legislation come into effect, local councils will have a duty to automatically enrol their eligible workers in a suitable pension scheme which will include LGPS. More information about other contributory pension schemes is available from the Department of Work and Pensions (DWP) and can be accessed using the following weblink: [www.dwp.gov.uk/docs/auto-enrol-and-wpr-the-facts.pdf](http://www.dwp.gov.uk/docs/auto-enrol-and-wpr-the-facts.pdf)

The model contract no longer refers to gratuities. The coalition Government plans to revoke the Local Government (Discretionary Payments) Regulations 1996 (“the 1996 regulations”) so that local councils will no longer have the discretion to pay a retirement gratuity. If they are revoked in 2012 as planned, no employee starting work now can acquire sufficient service to receive a retirement gratuity.

Any assignments for under 3 months are not pensionable. For Locum arrangements which continue over for 3 months or more where the council is a member of LGPS would give rise to pensions contributions by both parties.

As part of the negotiation for a rate of pay for Locum Clerks the loss of pension rights may be considered and incorporated into the agreed rate.

21. **Notice of Termination of Employment**

The minimum notice that the employee must give is one month; this is also the minimum notice that the Council must give during the first four years of employment.

After five years of employment, the notice that the Council is required to give rises by one week per year to 12 weeks’ notice after 12 or more years’ service.

22. **Dispute Resolution**

For information on dispute resolution see the NTS Publication “Being a good employer – a guide for parish and town councillors” – ps. 43-47. Any procedures should comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures. This can be accessed using the following weblink: [http://www.acas.org.uk/media/pdf/h/m/Acas_Code_of_Practice_1_on_disciplinary_and_grievance_procedures.pdf](http://www.acas.org.uk/media/pdf/h/m/Acas_Code_of_Practice_1_on_disciplinary_and_grievance_procedures.pdf)
23. **Health and Safety**

The Health and Safety Executive’s (HSE) website (www.hse.gov.uk) has further information. A template health and safety policy is available using the following weblink: [http://www.hse.gov.uk/simple-health-safety/write.htm](http://www.hse.gov.uk/simple-health-safety/write.htm)

24. **Equal Opportunity policies**

The Equality and Human Rights Commission (EHCR) has good practice guidance for employers and service providers. This can be accessed using the following weblink: [http://www.equalityhumanrights.com/publications/guidance-and-good-practice-publications](http://www.equalityhumanrights.com/publications/guidance-and-good-practice-publications)

Acas’s advisory booklet Delivering Equality & Diversity includes a sample equality policy for the workplace. This can be accessed using the following weblink: [http://www.acas.org.uk/index.aspx?articleid=818](http://www.acas.org.uk/index.aspx?articleid=818)

25. **Training and Development**

For information on training and development see the NTS publication “Being a good employer – a guide for parish and town councillors” – ps. 35-40

26. **Indemnity**

Councils may arrange insurance for the purpose of indemnifying employees.