

Agreed Procedures for the Compulsory Transfer of Surplus Main-grade Teaching Posts in Schools

I. INTRODUCTION

Main-grade teachers are appointed to the service of the authority and not to a particular school. All teachers have a contractual liability to transfer from one educational establishment to another at the exigencies of the business. However, every effort is made to minimise the number of compulsory transfers.

The transfer of promoted staff is covered by LNCT Circular 19.

Where the requirement for a compulsory transfer has been identified a number of factors will be considered, including the service plans of the Directorate, the curricular and educational requirements of the school involved, the preferences of the teacher(s) concerned and the views of the head teacher and senior education staff.

Main-grade teachers were previously covered by the *"Agreed Procedures for the Compulsory Transfer of Surplus Un-Promoted Teachers in Primary Schools"* and the *"Agreed Procedures for the Compulsory Transfer of Surplus Un-Promoted Teachers in Secondary Schools"*. These revised procedures incorporate and overtake the aforementioned procedures and will apply to all educational establishments in Glasgow City Council from 1st January 2013. These procedures will apply equally, as appropriate, to teachers employed in Primary, Secondary and Additional Support for Learning schools and including the specialist provision within mainstream schools.

2. TYPES OF TRANSFER

Every effort is made to minimise problems which arise when a teacher is indicated as being surplus

to their present school. In the first instance, a voluntary alternative will be requested. Where this cannot be achieved within the relevant timescale and in line with the exigencies of the business, a teacher will be identified for compulsory transfer.

2.1 Voluntary Transfer from a School with Identified Surplus Staff

Where it has been established within a school that there is a requirement to reduce staffing levels, the opportunity is given for teachers to put themselves forward to be nominated for transfer. If a suitable volunteer is identified and this request does not adversely affect the future educational requirements of the school, the request will be accepted. In line with staffing procedure, the volunteer will be treated in the same way as all other compulsorily transferred surplus teaching staff. If there is more than one volunteer, the teacher with the most continuous service with Glasgow City Council and, where appropriate, the former Strathclyde Regional Council will be transferred. Once the voluntary request for transfer has been accepted by the head teacher and the surplus teacher identified to the Human Resources Workforce Planning team, the surplus teacher can no longer opt out of the transfer procedure regardless of the voluntary status.

2.2 Compulsory Transfer

Where a school has more main-grade teachers than that to which it is entitled, in accordance with the Council's staffing standard, and no volunteer(s) for transfer can be found to reduce the staff to the approved entitlement, a teacher(s) will be identified as surplus and compulsorily transferred in accordance with the following agreed procedures.

These procedures cover the following details: the process for identification of the individual teacher(s) to be transferred compulsorily; detail with regard to further future transfer; any assistance with travel expenses which may be due, and the opportunity where possible to return to the original school/centre.

2.3 Welfare Transfer

A teacher may be compulsorily transferred to another establishment where it is deemed beneficial on the grounds of health and wellbeing by the head teacher, Human Resources Manager for Education, and the individual teacher concerned. Any such agreed transfer must meet the needs of the individual teacher and the exigencies of the business.

In such instances any transfer must be identified to the Human Resources Advice and Guidance team before the surplus meeting in March. Where a teacher is identified for transfer on welfare grounds, they will not be afforded the same benefits as compulsorily transferred or volunteer staff i.e. they will not have access to the list of available vacancies as part of the annual staffing exercise nor will they be given the benefit of excess travel expenses.

Teachers transferred under these welfare provisions will have a suitable alternative school agreed for them by the Human Resources Manager and senior Human Resources staff, in line with the requirements under which the transfer became manifest e.g. provisions under the Equalities Act 2010 (see Item 7.1.3). Such transfers will be agreed prior to the surplus staffing meeting as detailed above and with agreement of the relevant trade union and professional association. Welfare transfers agreed after the surplus staffing meeting will not commence the process of the identification of an alternative establishment until all appropriate surplus staff for that academic session have been placed e.g. all relevant Primary qualified teachers or relevant Secondary subject specialist teachers.

2.4 Permanent maingrade teachers in an "Acting" position

Where a teacher is in an acting position ie temporarily promoted from main grade permanent teacher they will still be considered as part of the annual staffing exercise where a surplus situation has been identified.

If the surplus situation is within the "acting up" teachers permanent department, and they are the teacher with the least service, then they will be surplus teacher and require to participate in the annual staffing exercise.

The surplus teacher will require to select a substantive post, however it may be the case that the current acting position will continue until the end of the current session, or into the next session depending on the reason for acting up.

Maingrade teachers who are in an acting position are covered by the surplus policy for maingrade teachers (LNCT Circular 21) and not the surplus policy for promoted teaching staff (LNCT Circular 19).

3. VOLUNTARY TRANSFER

3.1 Where a teacher wishes to be considered for a voluntary transfer and the school/establishment is not in surplus situation, they will be afforded this opportunity on an annual basis as part of the staffing exercise.

Staff wishing to be considered for voluntary transfer should contact Human Resources and advise their Headteacher by the end of January so that they can be included in the annual staffing exercise in February. Staff emailing after that date would not be included in that academic year's staffing exercise.

Once a teacher has confirmed their interest in a voluntary transfer they will be invited along to attend the annual staffing exercise with those teachers who have been declared surplus or have accrued employment rights.

Teachers attending the staffing exercise to attain a voluntary transfer will be placed on the list according to service **after those teachers who are surplus or have accrued employment rights and are already covered by LNCT 21.**

To be eligible for a voluntary transfer, a classroom teacher must have accrued five years continuous service within the school that they currently work in and not be subject to any formal policy as follows:

- Attendance management – live disciplinary warning
- LNCT 11 – any stage
- LNCT 12 – any stage

A teacher expressing an interest in voluntary transfer may withdraw from the exercise at any stage up to three days prior to the scheduled annual staffing meeting. Where a teacher has declared an interest in voluntary transfer and attended the annual staffing meeting, the post that they are vacating will be available for other colleagues to select, therefore, it will not be possible to withdraw from the exercise at this stage.

Normally any voluntary transfer will be effective from the beginning of the next session and the teacher will remain in their current post until the end of the current session.

4. PROCEDURES

- 4.1 The Human Resources Workforce Planning team will identify, by the end of February, establishments in which reductions in teaching staff may be required and will inform local secretaries of teacher organisations represented on the Teacher Consultative Forum.
- 4.2 The Human Resources Workforce Planning Team will determine, after consultation with the head teacher, the extent of the reduction required, taking into account the anticipated pupil roll for the coming session. The headteacher will in turn convey this information to the teaching staff within their establishments within five working days of confirmation from the Human Resources Workforce Planning team that a surplus situation exists within the school.
- 4.3 The entire main-grade teaching staff of an affected establishment will be consulted to ascertain if there is a volunteer for transfer. If there is no such volunteer, the Human Resources Workforce Planning team will decide which teacher is surplus and is therefore required to transfer. In most instances, the teacher with least total continuous service with Glasgow City Council and, where appropriate, the former Strathclyde Regional Council will normally be required to transfer unless there are, in the view of the Executive Director, strong reasons for deciding otherwise. Where continuous service, as referred to above, produces identical results for two or more teachers then the teacher to be compulsorily transferred will be chosen by the drawing of lots in the presence of the teachers concerned.
- 4.4 The teacher nominated for compulsory transfer will be informed of the proposed transfer verbally by the head teacher of their establishment and in writing by the Human Resources Manager for Education, intimating the decision made in relation to the transfer and reasons for it.
- 4.5 The teacher will receive written notification if the need to transfer ceases.
- 4.6 Any teacher being compulsorily transferred will be called to a meeting with the Human Resource Workforce Planning Team which will take place within the last two weeks of March. At this meeting each surplus member of staff will be provided with a copy of these procedures and details of all appropriate vacancies known at the time of the meeting.
 - 4.6.1 The surplus teacher will be asked to rank the vacancies in order of preference (where more than one vacancy exists).
 - 4.6.2 Where there are a number of surplus teachers within any one category, i.e. Primary or Secondary subject, teachers will be offered available vacancies according to their length of continuous service as detailed above, i.e. the rank order of the teacher(s) with longest continuous service will be offered first choice of the available vacancies and so on until the vacancies are filled.
 - 4.6.3 Surplus teachers will be given 10 working days between the date of the surplus staffing meeting and the submission of their options for transfer, during which time they will be encouraged to visit school establishments with appropriate vacancies and engage in dialogue with the head teacher and senior staff to ascertain the suitability of such vacancy. Headteachers who have had vacancies identified within their schools as part of the staffing exercise must ensure adequate time is allocated to welcome and brief any surplus teacher who may wish to visit their school as would be befitting for any future prospective member of the school staff.
- 4.7 Teachers nominated for compulsory transfer must submit their option choices for available vacancies in a timeous manner within 10 working days of the surplus staffing meeting. Where a teacher is unable to meet the prescribed time allotted for submitting their options for placement, this should be communicated immediately to the Human Resources team involved in the staffing exercise. Only in exceptional circumstances will a teacher be allowed additional time to select their transfer options.
- 4.8 Teachers will be requested to provide their desired transfer options within 10 working days. Placements cannot be guaranteed where options are received beyond 10 working days, placements that have already been made will not be altered for staff whose option form is received after the 10 working days prescribed. Any teacher submitting the late option criteria will be placed within the remaining cohort of surplus staff depending on their continuous service at the time their option form was received by the Workforce Planning team.

4.9 Where no suitable vacancies exist, teaching staff will be deployed to schools as determined by the Human Resources Workforce Planning team and in accordance with the exigencies of the business. Teachers may be split across a number of sites or perform peripatetic services until such time as a suitable permanent vacancy can be identified. If no suitable permanent vacancy is identified by the end of the first term i.e. October break, the teacher will be invited to the surplus staffing meeting for the forthcoming session.

4.10 Teachers will be given four weeks written notice of date of transfer.

4.11 This notice period may be adjusted subject to consultation with the headteachers concerned and with the agreement of the individual teacher.

4.12 Arrangements should be made at establishment level to ensure continuity of teaching and learning should a teacher become subject to potential or actual transfer. Headteachers should, where appropriate, allow the early release of surplus staff to new posts and where required, surplus teachers should be allowed shadowing and CPD opportunities within their new school before the official uptake of their post.

5. CALCULATING LENGTH OF CONTINUOUS SERVICE

5.1 For the purpose of determining liability to transfer in a situation of surplus, the undernoted will not count towards an individual's continuous service nor be regarded as constituting a break in service:

- i. Holiday period between contracts
- ii. Career Break

6. MATERNITY LEAVE/ADOPTION LEAVE

6.1 As part of its Equal Opportunities policy, Glasgow City Council wishes to recognise the position of its teaching staff who under-take either Maternity Leave, Adoption Leave, Surrogacy Leave or a "Family Break" extending to not more than seven years.

For the purpose of determining eligibility for compulsory transfer, all permanent teaching staff who are granted Ordinary Maternity Leave, Adoption Leave, Additional Maternity Leave or Surrogate Parental Leave will not be regarded as having had a break in their period of continuous service.

"Family Break" for Child Rearing Purposes:

For the purpose of determining eligibility for compulsory transfer, any permanent teacher who:

- i. Had a period out of teaching service solely for the purpose of child rearing and;
- ii. Where not more than seven years had elapsed between the date of birth/adoption of the child and the date of return to duty;

will not be regarded as having had a break in continuity of service, nor will it count as service.

It is possible to have more than one "Family Break" for child rearing purposes but the total amount of time out of service must not exceed the above period of seven years.

An example of the implementation of this paragraph is as follows:

A permanent teacher works for five years and then decides not to return to work following a period of maternity leave. The teacher has a break for child rearing purposes of four years and then returns to teaching. The teacher works for a further period of three years since returning after the birth of their baby. Their continuous service is aggregated as 5 years + 3 years = 8 years.

The four year "Family Break" does not count as pensionable service but is deemed not to have caused a break in the continuity of service

7. JOB-SHARERS

7.1 Job-sharing is defined as the voluntary sharing of all of the duties and responsibilities of an established full-time permanent post by two people. Therefore since job-sharers have agreed to carry out the contractual obligations associated with the post, they will normally be transferred together as a partnership.

7.2 In a compulsory transfer situation the service of the teacher with the longest continuous service within the partnership will be used. Where an original job-share arrangement, as defined in 7.1, no longer applies i.e. there is no longer an identified job-sharer, the continuous service of the individual teacher will apply.

7.3 Where one job-sharer volunteers for transfer, and in agreement with the head teacher, this will constitute the termination of the job-share contract. Each teacher will move forward on a part-time contract dependent upon the number of hours upon which they were originally employed.

An example of the implementation of the aforementioned items is as follows;

A school has to declare a 0.6fte surplus and there exists in the school/department a

job share partnership split 0.6fte and 0.4fte respectively. The headteacher will request volunteers. If the 0.6fte teacher of the job share partnership requests a transfer and volunteers to be made surplus the job share partnership will be dissolved. The 0.6fte teacher will enter the surplus staffing pool as a 0.6fte part-time teacher and the 0.4fte teacher will remain as a 0.4fte part-time teacher.

If there is no volunteer the head teacher cannot declare the 0.6fte surplus. The identification of the surplus teacher will be made by the Human Resource Workforce Planning team based on length of continuous service. This may result in a 1fte teacher being declared surplus which will give a 0.4fte vacancy in the school to be filled by the Human Resource Workforce Planning team. The aforementioned principles will also apply to part-time contracts.

- 7.4 Part-time service end-on to full-time service will be credited on a full-time equivalent basis for the calculation of total continuous service with the authority and its antecedent authorities.

8. GENERAL CONDITIONS

- 8.1 When placing teachers into available establishment vacancies the following considerations will be given in order of priority:
- 8.1.1 Teachers who qualify (as advised by an official Occupational Health Report) Under the Equalities Act (2010) as requiring "reasonable" adjustments (see Item 2.3).
- 8.1.2 Any teacher deemed surplus in the previous staffing exercise that has been unable to secure a substantive post. This provision will supercede the placement of surplus staff by continuous service. In respect of Secondary subject teachers, this will only apply to the subject or subject area the teacher was originally surplus from.
- 8.1.3 Teachers who have been compulsorily transferred within two years will be given the opportunity to return to their original school should a substantive vacancy exist. If the teacher decides to return to his/her former school, payment of Excess Travelling Expenses will cease together with the two year protection from further compulsory transfer.

- 8.2 Factors which may be taken into account in considering the nomination of a teacher for compulsory transfer include the curricular requirements of the school, the length of continuous service with the authority, teacher qualifications, including dual qualification, and the suitability of individual teachers for known, available vacancies.

8.3 Secondary Schools including Additional Support for Learning Establishments

- 8.3.1 Where curricular needs dictate, a headteacher may request dual qualification in certain specialist subject areas. Where this subsequently necessitates the compulsory transfer of a single qualified teacher, the headteacher must provide curricular evidence of the requirement for dual qualification to the Human Resources Manager for Education.
- 8.3.2 The vacant position must be subsequently filled by a dual qualified teacher with full registration in both stipulated subjects. Provisional registration in one subject will only be accepted where the headteacher can demonstrate the requirements of the timetable for the school can be met and full registration in the provisional subject will be attained by the following academic session i.e. 135 days standard probationary period in the additional subject can be accommodated in one academic session.
- 8.3.3 Where a teacher has been unable to find a suitable permanent vacancy and has attended two consecutive compulsory transfer meetings with Human Resources, the option for retraining may be required. Support will be provided regarding retraining and this will be discussed with the relevant individual at the time.
- 8.3.4 Additional Support for Learning teachers will be required to transfer only between those establishments where their qualifications, experience and skill set is appropriate.
- 8.3.5 Where appropriate an identified surplus Additional Support for Learning teacher may be given the opportunity to transfer into mainstream teaching establishment. In such circumstances support and retraining opportunities will be provided by Education Services before the surplus teacher is placed permanently within the mainstream environment.

8.4 **Pregnant Teachers/Maternity Leave**

8.4.1 A pregnant teacher should not be liable to compulsory transfer.

8.4.2 In cases where the identified teacher for compulsory transfer is pregnant, the liability for compulsory transfer will not be “*passed on*” to any other member of staff.

8.4.3 After the period of maternity leave is finished and the teacher is returning to work, the teacher will return to her former post and school **provided** that the return to work takes place within six weeks of the end of the school term (i.e. six weeks before the October, Christmas, Easter or Summer breaks). Thereafter, the normal compulsory transfer arrangements will pertain for the start of the following school term.

8.4.4 If, however, the teacher elects to return to work on a date which is **more than** six weeks prior to the end of a school term, the normal Compulsory Transfer arrangements will pertain from that point.

8.5 A teacher transferred compulsorily will not be transferred again within a period of two years. In addition, no teacher will normally be subject to more than two compulsory transfers in six years however the exigencies of the business may dictate that there is a requirement for such a further transfer. In these circumstances the reasons for the additional move will be discussed with the affected teacher by the head teacher of the establishment in question.

8.6 A teacher transferred compulsorily or one who volunteers in a school where a transfer has to be arranged will be entitled to excess travelling expenses after the first £2 per week for a period of four years in line with the national conditions of service.

8.7 A teacher who is compulsorily transferred will have the opportunity of returning to the school from which they were transferred should a suitable vacancy arise within a period of two years from the date of the compulsory transfer. The date of the compulsory transfer for the purposes of this policy will be the date of the Human Resources compulsory transfer meeting which usually takes place in March.

If the teacher decides to return to his/her former school, payment of excess Travelling Expenses will cease and the “*two year protection*” from further compulsory transfer will also cease.

8.8 A teacher who is undertaking a phased retirement or winding down and is in the final year of a declared retirement will not be subject to compulsory transfer and, in consideration of continuity of teaching and learning, will not have the opportunity to volunteer to transfer.

8.9 At any stage of transfer the teacher will have the opportunity, if so desired, to discuss the matter with the Human Resources Manager for Education or other senior officers within the Workforce Planning team and be accompanied by a trade union representative or person or other council employee of his/her choice.

9. ADDITIONAL SUPPORT FOR LEARNING

9.1 On occasions, teachers may wish to transfer in/out of teaching positions within additional support for learning sector.

9.2 Where an additional support for learning teacher is not in a surplus situation but wishes to transfer to a mainstream teaching position, this will be a voluntary transfer. The teacher should make this known to the Headteacher in February of that school year. The teacher will then be invited to the mainstream annual staffing meeting. See Section 3 for conditions on voluntary transfer.

9.3 Where an additional support for learning teacher is in a surplus situation and wishes to transfer to a mainstream teaching position, they will be placed on the list with other surplus teachers from the mainstream sector.

9.4 Where a mainstream teacher is not in a surplus situation but wishes to transfer to an additional support for learning teaching position, this will be a voluntary transfer. The teacher should make this known to the Headteacher in February of that school year. The teacher will then be invited to the additional support for learning annual staffing meeting. See Section 3 for conditions on voluntary transfer.

9.5 Where a surplus mainstream teacher wishes to transfer to additional support for learning sector, they should make this known to the Human Resources team and will attend only the additional support for learning annual staffing meeting. If there are insufficient posts available the teacher may require to participate in mainstream exercise.

10. SUBSEQUENT VACANCIES

- 10.1 It is often the case that posts become available after the Spring break when the majority of teachers who have attended the annual staffing exercise will have been placed. Due to the logistics of the exercise, it is not possible to re-visit the entire list. Those teachers who have already selected a permanent post from the list that was available in March of that school year will remain placed in the post that they have selected.
- 10.2 The subsequent vacancies that arise due to promotions and late notification of retirements will then be offered to any teachers remaining from the annual surplus meeting who have been placed in a temporary post. Under normal circumstances, any permanent teacher in a temporary post will be required to accept the offer of a suitable permanent post. Refusal of a permanent post will mean that the teacher forfeits their right to a priority place at the following year's staffing exercise, and the teacher will be placed on the list according to their length of service.
- 10.3 Offers of subsequent vacancies will continue to be made to teachers up until end of the October break in each school year. Following the October break in each school year, vacancies will be filled on a fixed-term basis and held for the staffing exercise in the following year. This means that any teacher allocated to a fixed term or permanent supply post will be offered any available permanent posts no later than the beginning of the 2nd term.
- 10.4 There is an obligation on the teacher to accept the substantive vacancy. If no post is allocated prior to the beginning of the 2nd term, the individual teacher will access the staffing exercise the following year with priority access to any available permanent post unless a permanent post has been refused. Where a permanent post has been refused, the individual teachers will access available posts the following year based on length of service with all other permanent surplus teachers.
- 10.5 The exception to above process may be in shortage subjects, where it is known in advance that there are no surplus teachers, these posts will proceed to open advert.
- 10.6 In all of the above processes the Human Resources Team will identify reasonable timescales for selection of posts. Teachers will be expected to adhere to the identified timescale to ensure the efficient filling of vacancies.

11. TIMING OF THE MAIN TRANSFER PROGRAMME

- 11.1 The Human Resources Workforce Planning team will give as much notice as possible to teaching staff of the need to make a reduction in the number of teachers employed in their school.
- 11.2 Individual teachers nominated for transfer will be notified in writing at the earliest possible date.
- 11.3 The normal notice for transfer will be one month, excluding holidays, but where, for good educational reasons, it is not possible to provide this notice the Human Resources Workforce Planning team will discuss the timing of the transfer with the local secretary of the appropriate professional association. This notice period may be adjusted subject to consultation with the headteachers concerned and with the agreement of the individual teacher.
- 11.4 A number of factors have to be taken into account in considering the timing of any programme which might encompass the majority of the transfers from one session to the next. These include the following:
- i. The need to break down projected authority rolls on a school by school basis;
 - ii. The effect of placing requests on the distribution of children/young people;
 - iii. The need to take account of changes in staff entitlements brought about by differences between estimated and actual child/young person numbers at the start of a new academic session.
 - iv. The fact that teachers need not give notice of resignation until late in the session e.g. in the month of May for a main-grade teacher wishing to leave at the end of the summer holiday period.
 - v. The timing of the placement of Probationer Teachers for their induction year.
- There is therefore no point at which the total number and location of vacancies for a coming session can be fixed with certainty. Coupled with the authority's desire to be in a position to offer teachers being compulsorily transferred the choice of more suitable posts should such become available, this precludes the establishment of a rigid timetable for transfer.
- 11.5 Where it has not been possible to fill vacancies through the above procedures vacant posts will be filled according to the Authority's normal recruitment procedures.

12. ROMAN CATHOLIC APPROVAL

It is necessary for any teacher working in a Roman Catholic school under the management of Glasgow City Council to have the approval of the Roman Catholic Church. This is a requirement of the Education (Scotland) Act 1980. Information on how to acquire Church approval can be found on the website of the Scottish Catholic Education Service (www.sces.uk.com) under the heading Teaching. It is a straightforward process and any qualified and registered teacher can apply.

Where a surplus teacher opts for a denominational vacancy subject to approval and this approval is refused, the teacher will be removed from the denominational vacancy and will be required to choose an appropriate non-denominational vacancy from those remaining at the time of the refusal. Should no appropriate vacancies be available the teacher will be placed into a temporary position as per Item 4.9 of this policy.