



SOUTH AYRSHIRE COUNCIL

JOINT NEGOTIATING COMMITTEE FOR TEACHERS

Section 1: Human Resources

Code of Practice on Use of Temporary Teachers (JNCT1.12)

1. Background

- 1.1 This agreement should be read in conjunction with SNCT 31(attached as Appendix A) which states that each Local Negotiating Committee for Teachers is required to reach an agreement, based on the National Code of Practice, which will replace the current arrangement for transfer from temporary to permanent status under clause 8.5 of the Teachers Conditions of Service.
- 1.2 In November 2003 the South Ayrshire Joint Negotiating Committee for Teachers (JNCT) agreed procedures for the transfer of all long-term temporary teachers with 1 years service at 31 December 2003 to transfer to the permanent staff. During this process the JNCT also agreed the use of part time permanent contracts for teaching staff. Those procedures were completed by June 2004 with 73 full time staff and 56 part time staff being transferred to permanency.
- 1.3 Since that agreement more teachers have attained employment rights and would now be eligible for permanency under clause 8.5. It is anticipated that further teachers could gain rights during Session 2004 – 2005. The Joint Secretaries will agree a process by which staff who are currently eligible to claim under 8.5 will be granted permanent status and this will be reported to the JNCT.
- 1.4 South Ayrshire Council also recognise the need to attract and retain suitably qualified and experienced teaching staff, particularly at this time of national teacher shortage.

2. Purpose

The aim of this local agreement is

- to establish good practice on the use of temporary contracts for teachers within South Ayrshire Council.
- to assist the Council in managing staffing in a co-ordinated and structured way which allows for a flexible response to changing service needs
- to ensure that the teacher recruitment process is fair and transparent
- to establish a mechanism for transfer from temporary to permanent status
- to ensure that the conditions of service of teachers on temporary contracts are no less favourable than those for teachers on permanent contracts
- to establish appropriate record keeping and reporting processes.
- to ensure the Authority have an adequate and flexible pool of supply teachers available when required

3. Employment Legislation

This agreement complies with the Employment Rights Act 1996 as amended by the Employment Relations Act 1999 and the Employment Act 2002. It also specifically takes into account the responsibilities placed on employers under the following regulations highlighted briefly below :

- Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 – stipulate that part timers are treated no less favourably than full

timers with regards to payment, superannuation, leave provision, sickness, maternity, access to training opportunities etc

- Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 – stipulate that fixed term employees should not be treated less favourably than comparable permanent employees. These regulations also stipulate the use of successive fixed term contracts will be limited to 4 years after which the employee would be considered to be permanent.
- Race Relations Amendment Act 2000 – seeks to ensure that equality of opportunity exists in all policies and procedures affecting employees and service users.

4. Short Term Temporary and Fixed Term Contracts

4.1 Short Term Contracts

SNCT 31 details the circumstances in which short term contracts would be used and recognises that there will always be a requirement for short-term temporary cover for teachers, and indeed that there will always be teachers who wish to work on that basis. South Ayrshire Council consider short term contracts to be those requiring little or no notice and where there is no obligation on either the Council to provide work or on the teacher to accept the offer. It is envisaged that short term will normally mean occasional single days. However, this agreement deems short term to be for a period of up to three weeks or in exceptional circumstances, four weeks in duration in either a full time or part time capacity. Anything beyond four weeks would be considered to be long term and would normally qualify as a fixed term contract.

4.2 Fixed Term Contracts

Teachers undertaking long term temporary work as shown below will be entitled to receive a fixed term contract detailing the expected duration and reason for the contract. There will be no automatic right for extension of such a contract. If the anticipated end date requires to be brought forward for reasons outwith the Authority's control, at least one week's notice of termination will normally be given. This section of the agreement clarifies when South Ayrshire Council would normally expect a teacher to work on a fixed term contract rather than on a permanent basis:

- Maternity leave
- Parental Leave
- Adoption Leave
- Career Break
- Long-term sickness absence
- Secondment
- Sabbaticals
- Time Limited Funding

There may be other circumstances which necessitate a fixed term contract but these will be subject to agreement by the Joint Secretaries.

4.3 South Ayrshire Council JNCT recognises that many teachers are likely to be employed on a series of fixed term contracts and have therefore established a transfer process which can be found in Section 6 of this agreement.

4.4 Notice Periods

Discussion is taking place within the JNCT on managing the return to work of employees who have been absent. These discussions should ensure that appropriate notice is given to teachers employed on fixed term contracts regarding the cessation date of these contracts.

5. Teachers' Staffing Exercise

5.1 Schools are staffed based on pupil roll which results in a need for an annual staffing exercise to be conducted and during which surplus staff in particular establishments may be identified for transfer. The JNCT has recognised that there is a requirement to update the existing staff transfer agreement in order that temporary or part time staff are not disadvantaged and to ensure compliance with South Ayrshire Council's Managing Change policy. It is anticipated an agreement will be reached in the JNCT early in 2005.

5.2 ECLL has agreed to review the timing of the annual staffing exercise in order that permanent posts can be identified and interviewed prior to the end of each school year. Posts will normally be advertised in the TES Supplement but agreement has been reached that such posts will also be shown on The Wire.

5.3 South Ayrshire Council will continue to make every effort to avoid compulsory redundancy. However if this became necessary, employees on fixed term contracts would be treated equally and would not be selected for redundancy simply on the grounds of their employment status.

6. Transfer Procedure from Temporary to Permanent Status

There are a variety of means by which a temporary teachers can achieve transfer to a permanent teaching position :

6.1 Competitive Interview

Provided they are fully GTC registered they are entitled to apply for permanent posts through the normal recruitment process.

6.2 Permanent peripatetic pool

A pool of permanent peripatetic teachers has already been established within South Ayrshire Council. Whilst this currently operates on a super-cluster basis, the Authority is giving consideration to establishing peripatetic posts within individual school clusters. Priority will be given to maintaining staffing levels in the peripatetic pools servicing rural areas and former areas of deprivation. As can be seen in 6.3 below, permanency may be offered to long-term temporary teachers via this route.

6.3 Teachers on successive fixed term contracts

Normally a temporary teacher holding fixed term contracts continuously for two full calendar years will be offered a permanent appointment with the Authority. This appointment will normally be to a Permanent Peripatetic Pool although in certain circumstances teachers may be offered permanency in a particular school.

Transfer to the permanent pool will be on the basis of the teacher giving continuous satisfactory service to the Authority. The JNCT has agreed that Head Teachers will complete a report on temporary teachers based on the GTC Code of Competence. A copy of the agreed form is attached as Appendix B. Where service given is deemed to be unsatisfactory documentary evidence will be provided to the teacher concerned and where appropriate to the teacher's Association or Trade Union Representative.

The permanent appointment will normally match the temporary pointage undertaken by the teacher during the course of employment. If the contractual hours were variable then an average of the hours undertaken in the last school year worked will normally be offered on a permanent basis provided the Authority still has a requirement for this subject or area of work. If the Authority has no requirement for this particular subject or post an offer of general cover may be made. Further discussion on this matter will require to take place within the JNCT.

Teachers, mostly in the secondary sector, who are qualified in more than one subject area may be offered permanency in either of the qualified areas, regardless of the subject area which built up the entitlement to permanency. The decision will be based on the exigencies of the service. This approach will also be applied to primary and secondary qualified teachers who have accrued rights undertaking pupil support.

6.4 Definition of continuous service

Continuity is when a teacher has worked a minimum of one hour per week every week. If more than 5 days (normally Mon – Fri) pass without any employment being offered then this will be deemed to be a break in service.

The service of probationer teachers participating in the Teacher Induction Scheme will not be counted as continuous for employment protection but shall be counted as reckonable service for sickness, superannuation etc as outlined in the Teacher Induction Scheme Training Agreement.

6.5 Permanent staff undertaking additional temporary hours

A number of part time and job sharing teachers have chosen to accept additional temporary hours either in their base school or elsewhere within the Authority. If such an arrangement exists continuously for 2 calendar years then the teacher will be offered these hours on a permanent basis. Normally these additional permanent hours would be within the Authority's permanent peripatetic pool to ensure that maximum flexibility of staffing is retained. Section 6.3 applies equally to permanent staff accepting additional temporary hours.

7. Recruitment Process for Unpromoted Teaching posts

- 7.1 South Ayrshire Council's JNCT 1.13(a) agreement details the recruitment process for permanent unpromoted teaching posts.
- 7.2 In order to secure the most appropriate person for the post, it is intended that South Ayrshire Councils' Children and Community Directorate will, where possible, move towards a process of competitive interviews for foreseen long term temporary cover posts identified in 4.2 above.

8. **Conditions of Service for Temporary Teachers**

South Ayrshire Council policies, procedures and terms and conditions apply equally to permanent and temporary staff and to part time and full time staff. Specific agreement has been reached through the JNCT that in relation to induction, employment opportunities, CPD and general support ALL teaching staff should be treated equally and given the same opportunities.

9. **Record Keeping**

- 9.1 South Ayrshire Council hold a register of temporary teachers who have been interviewed and who are available for supply work. Since 2005 the Authority has centralised ALL bookings for short-term and long-term temporary posts in order that the teachers' service can be tracked for the purposes of sick pay, holidays and determination of continuous service.
 - 9.2 During the summer of each year, temporary teachers will be issued with a printout of the days they worked with South Ayrshire Council. The Authority will also co-operate with other Local Authorities in providing teachers service records when requested for determination of salary placing and employment rights.
 - 9.3 Regular reports will be provided to the JNCT on the availability of posts and the numbers of teachers being considered for permanent status.
10. In reaching this agreement both the Management Side and Employee Side of the JNCT confirm that Clause 8.5 of the Teachers Conditions of Service will no longer apply within South Ayrshire Council from January 2005. The JNCT will monitor the impact of this agreement on a regular basis with any further changes requiring full agreement by both sides.

Scottish Negotiating Committee for Teachers

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Dear Colleague

SNCT/31
Code of Practice on the use of Temporary Contracts

1. The National Agreement, "A Teaching Profession for the 21st Century" made a commitment to temporary teachers:

"2.7 Transfer of Temporary Teachers to the Permanent Staff.- It has been agreed to establish a national Code of Practice on the use of temporary contracts. Once the new Code of Practice is agreed local negotiating committees can replace existing Clause 8.5 of the Scheme with a local agreement based on the national Code of Practice."
2. Agreement has now been reached by the SNCT on a Code of Practice for Temporary Contracts. LNCTs shall seek to reach agreement, based on the National Code of Practice, which will replace the current arrangements under Paragraph 8.5.
3. The code will be monitored at local level through the LNCT and at national level by the SNCT.
4. Conditions of service for temporary teachers are set out in SNCT circulars, and in the Scheme of Salaries and Conditions of Service and, where relevant by Local Negotiating Committees for Teachers

Yours sincerely

Lynne Dickson (Employers' Side)
Drew Morrice (Teachers' Panel)
Stephanie Walsh (Scottish Executive)

Joint Secretaries

Code of Practice on the use of Temporary Contracts (SNCT 31)

1. Introduction

- 1.1 The aim of this Code is to establish good practice on the use of temporary contracts
- 1.2 The SNCT recognises the important contribution made by temporary teachers, many of whom go on to hold permanent contracts. The SNCT believes that it is essential that temporary teachers are treated in the same way as permanent staff and given access to appropriate induction, training and support.
- 1.3 The Code takes into account the Employment Rights Act 1996, as amended by the Employment Relations Act 1999 and the Employment Act 2002, as well as Part-Time Workers (Prevention of Less Favourable Treatment) and the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002.

2. Purpose

- 2.1 The purpose of the Code is to enhance the principles of a professional service by helping Councils to manage their staffing requirements in a co-ordinated and structured way. This must be responsive to service needs whilst at the same time providing teachers with access to secure employment opportunities, wherever possible.
- 2.2 The Code aims to ensure that employees on temporary contracts are not treated less favourably than permanent employees.
- 2.3 It is recognised that there will be teachers who may be employed on temporary contracts for significant periods of time. In such cases the letter of appointment must make clear the expected length of appointment.
- 2.4 It is recognised that there will always be a requirement for short-term temporary cover, and indeed there will always be teachers wishing to work on that basis. In order to achieve an element of consistency as well as giving staff security of permanent employment, Councils are encouraged to consider the option of appointing permanent peripatetic teachers to work within groups or “clusters” of schools. However, it is recognised that the need for additional *ad hoc* short-term cover will remain.

3. Definitions

The SNCT recognises two situations when a Council may need a teacher to work other than on a permanent basis. These are set out below and apply irrespective of the number of hours worked.

3.1 Fixed-Term Temporary Requirement

- 3.1.1 Where it is known from the outset the reasons for the temporary requirement and its likely duration, a temporary contract of employment will be issued, as soon as possible, specifying entitlement to pay and conditions of service and detailing the expected duration and reason for the appointment.

3.1.2 The use of fixed term temporary appointment may be made in a number of circumstances including the following:

- maternity leave
- parental leave
- adoption leave
- career break
- long-term sickness absence
- secondment
- sabbaticals
- staffing from time limited funding

3.2 Short-Term Temporary Requirement

3.2.1 In certain limited circumstances, teachers may be offered work on a short-term temporary basis, generally with little or no notice, and usually on a day-to-day basis. In such instances there is no obligation on the Council to provide work or on the teacher to accept the offer of work. In the short-term situation, teachers may be asked to provide cover for absences including the following:

- in-service training/staff development/working groups
- special leave, for example, bereavement leave, jury duty
- paternity/maternity support leave
- short-term sickness absence
- trade union duties
- SQA duties.

3.2.2 Where it becomes clear that the need for the temporary replacement is likely to be ongoing or lengthy, then the individual should be issued with a fixed-term contract as described in paragraph 3.1 above.

3.2.3 Councils will need to ensure that adequate systems are in place to record the days/hours worked by temporary teachers for pay purposes.

4. Recruitment

4.1 Every teacher recruited to undertake work on a fixed term or short-term temporary basis will be appointed in accordance with that council's recruitment procedures.

4.2 Following this process such teachers will be placed on a register of approved teachers maintained for these purposes.

5. Transfer to Permanent Status

5.1 Movement to a permanent post will be open to temporary teachers through normal application. Temporary teachers should be provided with the same access to information on vacancies for permanent posts as is provided to existing permanent post holders.

- 5.2 Transfer to a Council's permanent staff will also be through arrangements agreed by the LNCT.
- 5.3 Under the Fixed Term Employees Regulations 2002 any temporary contract extended beyond 4 years will be made permanent unless the authority can objectively justify not doing so.
- 5.4 Fixed term temporary employees should not be selected for redundancy on the grounds of their employment status. Any selection for redundancy must be objectively justified.

SOUTH AYRSHIRE COUNCILREPORT ON LONG TERM TEMPORARY TEACHERTRANSFER FROM TEMPORARY TO PERMANENT STATUS**Personal Details**

Teacher's Name :

Subject of Post Held: _____

Start Date in post : _____

Pointage held (FTE): _____

Is current disciplinary action recorded on file for this teacher ? YES/NO

Have timekeeping or attendance given any recent cause for concern? YES/NO

Assessment of professional performance

Measured against the GTC Code of Practice on Teacher Competence, please tick the appropriate boxes below to indicate the overall level of professional competence in the following areas:

	Excellent	Satisfactory	Unsatisfactory
Professional Knowledge and Understanding			
Professional Skills and Abilities			
Professional Values and Personal Commitment			

If the performance of the teacher has been unsatisfactory in any of the above areas please indicate below which of the following steps you have taken :

	YES	NO
Made teacher aware of specific concerns on their competency		
Offered appropriate support		
Agreed appropriate professional development opportunities		
Set appropriate targets for improvement		
Asked for teacher to be transferred or removed from supply system		

Overall assessment of suitability for transfer to permanent status

	YES	NO
I consider this teacher to be suitable for employment as a permanent teacher with South Ayrshire Council - if ticking no, please give reasons below		

Reasons why teacher should **not** be offered a permanent appointment anywhere in South Ayrshire :

I confirm that this is an accurate report which has been discussed with the teacher concerned.

Signature of Head _____ Date _____
Teacher _____

This section to be completed by temporary teacher

I have been given the opportunity to discuss this report. YES / NO

My registration with the GTC is FULL / PROVISIONAL

My GTC Registration allows me to teach in PRIMARY/ SECONDARY/ BOTH

Are you currently approved to teach in a post in the Catholic Sector YES / NO

Signature of Teacher _____ Date _____