

EAST RENFREWSHIRE LNCT AGREEMENT

**AGREED PROCEDURES FOR THE COMPULSORY TRANSFER OF
(UNPROMOTED & PROMOTED) TEACHING STAFF SURPLUS TO A SCHOOL'S
ESTABLISHMENT**

May 2011



Education Department

Revised May 2011

EAST RENFREWSHIRE COUNCIL: EDUCATION DEPARTMENT

The Council Offices
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TO HEADS OF ALL EDUCATIONAL ESTABLISHMENTS

Dear Colleague

AGREED PROCEDURES FOR THE COMPULSORY TRANSFER OF (UNPROMOTED & PROMOTED) TEACHING STAFF SURPLUS TO A SCHOOL'S ESTABLISHMENT

SECTION 1 - Introduction

- 1.1 All teaching staff are appointed to the service of the authority and not to a particular school. Although all teachers have a contractual obligation to transfer from an educational establishment to another, every effort will be made to minimise the number of compulsory transfers.
- 1.2 Where arrangements have to be made for a compulsory transfer, a number of factors require to be considered, including the needs of the schools involved, the circumstances of the teachers concerned and the views of the head teacher.
- 1.3 All employees will be treated fairly. East Renfrewshire Council is committed to ensuring that these procedures do not discriminate directly or indirectly in relation to current equality regulations.

SECTION 2 - General Procedures

- 2.1 These procedures cover the identification of the individual teaching staff to be transferred compulsorily and accord certain benefits by way of a measure of protection from further transfer, some assistance with travelling expenses (see Para 2.18) and the opportunity where possible to return to their original school whenever a suitable vacancy arises there within the first two year period of the transfer. (See Appendix B / Section 5).
- 2.2 The Head of Education Services (Staff, Parents and Corporate Services) will determine, after consultation with head teachers, the extent of the reductions, and the subject area(s) / promoted post level(s) which will be affected having regard to the anticipated pupil rolls for the following session. The head teacher will in turn convey this information to local secretaries of teacher organisations represented on the Local Negotiating Committee for Teachers and to affected staff at the earliest opportunity.
- 2.3 The Head of Education Services (Staff, Parents and Corporate Services) will confirm at, as early a date as possible, subject departments / promoted post level(s) / schools in which reductions in teaching staff may be required and will inform local secretaries of teacher organisations represented on the Local Negotiating Committee for Teachers.

- 2.4 The entire unpromoted or promoted teaching staff of an affected subject department / school will be consulted to ascertain if there is a volunteer for transfer in the first instance. Should this elicit no volunteer the person with least total continuous service with the authority, in that category of post, will normally be required to transfer unless there are, in the view of the Head Teacher in consultation with the Head of Education Services (Staff, Parents and Corporate Services), strong reasons for deciding otherwise. In the latter event such decisions indicating the reasons shall be communicated to the local secretaries of teacher organisations represented on the Local Negotiating Committee for Teachers prior to the transfer being effected. Detailed procedures are set out at Appendices A & B.
- 2.5 For unpromoted staff length of service as referred to at 2.4, will be calculated by applying the following criteria listed below. The member of unpromoted teaching staff with the least length of service will be liable for transfer in order of priority shown below:
- Total length of continuous service with the authority
 - Total length of continuous service based in their present school.
 - Total length of all teaching service

In relation to the first 2 points, continuous service refers to full and part-time service and will include temporary service where there has been no break in service.

- 2.6 For promoted staff, length of service as referred to in 2.4 will be calculated by applying the following criteria listed below. The member of promoted teaching staff with the least length of service will be liable for transfer in order of priority below:
- Total length of continuous service with the authority in the promoted role declared surplus
 - Total length of continuous service with the authority in the current and previous promoted roles
 - Total length of continuous service with the authority
 - Total length of continuous service based in their present school.
 - Total length of all teaching service

Where these processes at 2.5 and 2.6 produce equal service for the two or more employees in question, the teacher to be compulsorily transferred will be chosen by the drawing of lots in the presence of the teachers concerned.

- 2.7 The Teacher / PT / DHT / HT nominated for compulsory transfer will be informed by the Head of Education Services (Staff, Parents and Corporate Services) of the proposed transfer and will receive a formal letter intimating the decision to transfer and the reasons for it.
- 2.8 Any Teacher / PT / DHT / HT being compulsorily transferred will be allowed the choice of all known appropriate vacancies within the authority. Where more than one Teacher / PT / DHT / HT is interested in any vacancy it will be offered to the Teacher / PT / DHT / HT with the longest continuous service in that category of post. The authority does however reserve the right to 'match in' surplus promoted post holders. The order of consideration for 'matching-in' will normally relate to:
- Same salary posts
 - Similar salary (i.e. with reference to conserved salary scale)

- Same level of post, different designation(e.g. PT Curriculum going to PT Development)
- Least additional salary cost

2.9 When filling vacancies for the coming session teaching staff will be transferred in the following order of priority:

- Teaching staff who have become surplus to establishment as a result of the first phase of a school closure / amalgamation.
- Teaching staff who have been on retraining courses as a result of a previous surplus situation should be offered a choice of all appropriate known establishment vacancies either in their new subject or in a combination of their old and new subjects (where appropriate) in accordance with the wishes of the teacher and exigencies of the service.
- Teaching staff who are either volunteers from schools with staff surplus to establishment or who are to be transferred compulsorily because they are surplus to the establishment of a particular school, should be offered the choice of all appropriate vacancies.

2.10 For the purpose of determining liability to transfer in a situation of surplus the undernoted will not be regarded as constituting breaks in service, neither will they count as service:

- holiday periods between contracts.
- lapses of employment of no more than 10 working days.
- lapses of employment falling within the period from the start of the session up to but not including the first working day after 31 August.
- Periods out of service solely for the purpose of child rearing for a period not exceeding 7 years will not be regarded as constituting a break in service. Such periods out of service in connection with child rearing shall count as the equivalent of teaching service for the purpose of identifying a teacher as surplus to the establishment of a particular school.
- It will be possible to count more than one period out of service for child rearing purposes as service, but the total amount of time out of service to be counted must not exceed an aggregate of 7 years.

2.11 For the purpose of determining liability to transfer in a situation of surplus the undernoted will not be regarded as constituting breaks in service and will be counted as service for the purposes of compulsory transfer:

- Periods of unpaid maternity leave, additional paternity leave and adoption leave.

2.12 As job-sharers have agreed to carry out all the contractual obligations associated with a post, job-sharers, when appropriate, will normally be transferred together. At the commencement of a job-share the service of the longer serving of the partners will be credited to the post. In this way consideration can be given to the compulsory transfer of the job-share post when compared to the full-time posts within the department / school.

- 2.13 Part-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.
- 2.14 Where this further calculation fails to resolve the issue then the teacher to be compulsorily transferred will be chosen by the drawing of lots in the presence of the teachers concerned.
- 2.15 A pregnant teacher will not normally be liable to compulsory transfer.
- 2.16 For teaching staff returning to work from maternity leave where a surplus situation has arisen in their school, normal transfer arrangements will pertain.
- 2.17 A teacher transferred compulsorily will not normally be transferred again within a period of two years.
- 2.18 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 in terms of the SNCT Handbook of Conditions of Service.
- 2.19 The following factors will be taken into account when there is no volunteer prepared to transfer and the teacher due to be compulsorily transferred from a department has a teaching commitment to another department in a school:
- the presence in the school of other members of staff who could take over the teaching commitment.
 - the possibility of filling the gap on a part-time or peripatetic basis within the establishment of the school.
 - the historical experience that the teacher has in the department in question.
 - the future curricular needs of the school.
- 2.20 Having taken these and other relevant factors into consideration the Head of Education Services (Staff, Parents and Corporate Services), having consulted the head teacher and teaching staff concerned will decide who is to be compulsorily transferred.
- 2.21 At any stage of transfer the teacher will have the opportunity, if so desired, to discuss the matter with the Head of Education Services (Staff, Parents and Corporate Services) and be accompanied by a representative of his / her professional association. It is also open to a teacher who feels aggrieved to use the formal grievance procedures.
- 2.22 Denominational Schools - Whilst the authority reserves the right to compulsory transfer staff, it is recognised that some teaching staff may request not to be transferred from a non-denominational school to a denominational school, or vice versa. Every effort will be made to accommodate such requests, subject to the needs of the service. In line with Section 21(2A) of the Education (Scotland) Act 1980, applicants for teaching posts in all Roman Catholic Schools will require to have Roman Catholic Church approval.

SECTION 3 - Timing of the Main Transfer Arrangements

- 3.1 The head teacher will give as much notice as possible to teaching staff of the need to make a reduction in the number of teaching staff employed in his / her school. In the

- case of a HT transfer situation, this will be managed by the Head of Education Services (Staff, Parents and Corporate Services) and decisions taken by the Director of Education.
- 3.2 Individual teaching staff nominated for transfer will be notified by HR in writing at the earliest possible date.
- 3.3 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 Head of Education Services (Staff, Parents and Corporate Services) will discuss the timing of the transfer with the local secretaries of teacher organisations represented on the Local Negotiating Committee for Teachers.
- 3.4 A number of factors have to be taken into account in considering the timing of any programme which might encompass the bulk of the transfers from one session to the next. These include the following:
- the effect of placing requests made by parents on the distribution of pupils.
 - the need to take account of changes in staff entitlements brought about by difference between estimated and actual pupil numbers at the start of a new session.
 - the fact that teaching staff need not give notice of resignation until late in the session, e.g. May for an unpromoted teacher wishing to leave at the end of the summer holiday period and 8 weeks for promoted teaching staff.
- 3.5 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 teaching staff being compulsorily transferred the choice of suitable posts should such become available, this precludes the establishment of a rigid timetable for transfer. Every effort will be made to notify surplus teaching staff of transfer arrangements by the end of May. This will be communicated to the member of staff via their head teacher and followed up in writing by HR.
- 3.6 In June, following discussion with their head teacher, confirmation will be sent by HR to any remaining surplus staff for whom no other post is available that they may require to remain where they are at the start of the session until a suitable vacancy is identified. Alternatively, they may consider a course of retraining.

SECTION 4 – Temporary Transfer arrangements

- 4.1 If there is no permanent vacant post available to transfer a surplus teacher to, then the authority reserves the right to redeploy the surplus teacher into a temporary vacant post in another educational establishment meantime. The temporary transfer of a surplus member of staff should only take place where the vacancy is available for no less than a full school term.

Surplus Unpromoted Teaching Staff – see Appendix A

Surplus Promoted Teaching Staff – see Appendix B

John Wilson
Director of Education
May 2011

May 2011

AGREED PROCEDURES FOR THE COMPULSORY TRANSFER OF UNPROMOTED TEACHING STAFF SURPLUS TO A SCHOOL'S ESTABLISHMENT

SECTION 1 - Types of Transfers – General Procedures

- 1.1 Every effort is made to avoid problems by seeking voluntary arrangements in the first instance. Only where this cannot be achieved within the relevant timescale will teachers be transferred compulsorily. There are therefore two modes of transfer:
- 1.2 Voluntary transfer from a school with identified surplus staff - where it has been established that a school is likely to have surplus unpromoted staff in a coming session (or in the situation of a closure / amalgamation), the opportunity is given for teachers to put themselves forward to be nominated for transfer. In these circumstances the volunteer is treated in the same way as all others compulsorily transferred.
- 1.3 Compulsory Transfer - Where a school has more unpromoted teachers than that to which it is entitled in accordance with the authority's staffing standard (or in the situation of a closure / amalgamation), and no volunteer(s) for transfer can be found to reduce the staff to the approved entitlement, a teacher(s) will be compulsorily transferred in accordance with these agreed procedures. The same arrangements will apply to unpromoted teachers in all schools.

SECTION 2 - Primary / Special / Pre 5 Sectors

- 2.1 Teachers may be declared surplus as a result of school closures / amalgamations / falling school roll / revised authorised entitlement arrangements.
- 2.2 The opportunity to volunteer for transfer will be made available to all unpromoted teachers.
- 2.3 All unpromoted teachers will be consulted to ascertain if there is a volunteer for transfer. Otherwise, the teacher with least total continuous service with the authority will normally be required to transfer unless there are, in the view of the Head Teacher in consultation with the Head of Education Services (Staff, Parents and Corporate Services), strong reasons for deciding otherwise and in that event such decisions indicating the reasons shall be communicated to the local secretaries of teacher organisations represented on the Local Negotiating Committee for Teachers prior to the transfer being effected.

SECTION 3 - Secondary Sector

- 3.1 Where it has been established that a subject department in a secondary school is likely to have a surplus unpromoted teacher in a coming session, the opportunity is given for teachers within the subject area affected to put themselves forward to be nominated for transfer, otherwise compulsory transfer arrangements will apply.
- 3.2 In the event that there is more than one teacher in the subject / department in the school, all affected teachers will be consulted to ascertain if there is a volunteer for transfer. Otherwise, the teacher with least total continuous service with the authority

will normally be required to transfer unless there are, in the view of the Head Teacher in consultation with the Head of Education Services (Staff, Parents and Corporate Services), strong reasons for deciding otherwise and in that event such decisions indicating the reasons shall be communicated to the local secretaries of teacher organisations represented on the Local Negotiating Committee for Teachers prior to the transfer being effected. In the event of there being only one teacher affected that teacher will automatically be declared surplus.

May 2011

AGREED PROCEDURES FOR THE COMPULSORY TRANSFER OF PROMOTED TEACHING STAFF SURPLUS TO A SCHOOL'S ESTABLISHMENT

SECTION 1 - Types of Transfers – General Procedures

- 1.1 Every effort is made to avoid problems by seeking voluntary arrangements in the first instance. Only where this cannot be achieved within the relevant timescale will a promoted post holder be transferred compulsorily. There are therefore two modes of transfer:
- 1.2 Voluntary transfer from a school with identified surplus promoted staff - Where it has been established that a school is likely to have surplus promoted staff in a coming session, the opportunity is given for Principal Teacher / Depute Head Teacher to put themselves forward to be nominated for transfer. In these circumstances the volunteer is treated in the same way as all others compulsorily transferred.
- 1.3 Compulsory Transfer - Where a school has more Principal Teachers / Depute Head Teachers than that to which it is entitled in accordance with the authority's staffing standard, and no volunteer(s) for transfer can be found to reduce the staff to the approved entitlement, Principal Teachers / Depute Head Teachers will be compulsorily transferred in accordance with the agreed procedures.

SECTION 2 - Primary / Special / Pre 5 Sectors

- 2.1 Head Teachers / Depute Head Teachers / Principal Teachers may be declared surplus as a result of school closures / amalgamations, a falling school roll or through revised Management Time.
- 2.2 In the event that there is more than one Depute Head Teacher / Principal Teacher in the school, the entire substantive promoted teaching staff of the affected level will be consulted to ascertain if there is a volunteer for transfer. Otherwise, the Depute Head Teacher / Principal Teacher with least total continuous service with the authority in their substantive role will normally be required to transfer unless there are, in the view of the Head Teacher in consultation with the Head of Education Services (Staff, Parents and Corporate Services), strong reasons for deciding otherwise and in the latter event such decisions indicating the reasons shall be communicated to the local secretaries of teacher organisations represented on the Local Negotiating Committee for Teachers prior to the transfer being effected.
- 2.3 In the event of a school closure or amalgamation the above will also apply.

SECTION 3 - Secondary Sector

- 3.1 In the event that there is more than one Depute Head Teacher, Secondary Principal Teacher Faculty, Curriculum or Pupil Support / Pastoral / Learning / Behaviour in the school, the entire promoted teaching staff of the affected category will be consulted to ascertain if there is a volunteer for transfer. Otherwise, the Depute Head Teacher / Principal Teacher with least total continuous service with the authority in that category of promoted post will normally be required to transfer unless there are, in the view of the Head Teacher in consultation with the Head of Education Services (Staff, Parents and Corporate Services), strong reasons for deciding otherwise and in the latter event such decisions indicating the reasons shall be communicated to the local secretaries of teacher organisations represented on the Local Negotiating Committee for Teachers prior to the transfer being effected. In the event of there being only 1 Principal Teacher affected, e.g. Principal Teacher Learning / Principal Teacher Behaviour / Principal Teacher curriculum, that Principal Teacher will automatically be declared surplus.

SECTION 4 - Conservation

- 4.1 Where surplus promoted teachers are transferred to posts which have a lower salary, the salary conservation arrangements as set out in the SNCT Handbook of Conditions of Service will apply as at the time of transfer.

SECTION 5 - Role of the Parent Council

- 5.1 National open advertising of vacancies for Head Teacher and Depute Head Teacher is the norm. However, Regulation 5 (3) of the *Parental Involvement in Head Teacher and Deputy Head Teacher Appointments Scotland Regulations 2007* allows for the post of Head Teacher and Depute Head Teacher to be filled by means of redeployment.
- The Parent Council of a school to which a relevant appointment is to be made is required to be consulted in relation to any strategies, job / person specification in relation to that appointment and have their views taken regard of.
- The Parent Council shall not however, be involved in leeting or appointment panel process where, under Regulation 5 (3) of the *Parental Involvement in Head Teacher and Deputy Head Teacher Appointments Scotland Regulations 2007* the Local Authority determine that the post be filled by redeployment by an existing Head Teacher / Depute Head Teacher currently employed elsewhere.

STANDARD CIRCULAR 43 (A)
May 2011

**DEPLOYMENT OF TEACHERS SURPLUS TO A SCHOOL'S OVERALL
ESTABLISHMENT**

1. The teaching establishment at each school will be determined with regard to the school roll and the staffing standard set by the authority. The subject distribution in secondary schools will be by negotiation.
2. Where for some reason, (for example a fall in the school roll or need to maintain curriculum balance), a teacher may be deemed to be surplus to a school's establishment, and may have to be transferred out of the school, the procedures described in Standard Circular 43 will be followed.
3. Situations do arise however, where there are no suitable vacancies in other schools at the particular time. While the authority reserves the right to redeploy the surplus teacher to another educational establishment or to other duties it regards as appropriate, and within the agreed procedures, it is customary in such circumstances to leave the surplus teacher in the school where s/he had previously been employed, the head teacher having been advised that the teacher may be moved to an appropriate vacancy at notice shorter than the one month specified as normal in the agreed procedures. Where it would be in the interests of the service to effect a transfer with a shorter than normal period of notice, the timing of the transfer will be the subject of consultation with all parties concerned.
4. Where a surplus situation is identified and it is not possible to effect a transfer, when deploying surplus teachers, it will be necessary to strike a balance between the need to ensure continuity for pupils and the need to ensure that the skills and professional development of these staff are not detrimentally affected. Surplus teachers should, therefore be deployed in a manner that will:-
 - permit the transfer to be made at minimum notice
 - be within the competence of the surplus teacher
 - maintain the professional skills of the surplus teacher

Head teachers should, therefore, ensure that, wherever possible, teachers who are declared surplus to establishment will be afforded a meaningful, collapsible, timetable covering class teaching commitments, consistent with the level of post. Where such a timetable is not possible, either in whole or in part, there are a range of other possibilities for the deployment of surplus teachers including:-

- Cover for absent colleagues in their own subject areas or cognate areas.
- Cover for an absent teacher of another discipline on an equitable basis with other teachers within the school's establishment during any period for which the authority would not normally provide a replacement teacher.
- Co-operative teaching or provision of support for learning.
- Preparation of curriculum materials within guidelines provided by the head teacher or head of department.
- Any other suitable work agreed by the teacher and his/her head teacher.

5. Promoted teachers who are declared surplus to establishment will maintain their status, duties and management time (as per agreed entitlement) within their schools until transferred.
6. In schools to which surplus teachers continue to be attached pending a suitable vacancy arising, the replacement of absent teachers within the subject areas or cognate curricular areas of the surplus teachers is not considered until the number of absent staff in these areas exceeds the number of those in surplus, in which case the normal arrangements for the provision of absence cover are applied.
7. As a surplus teacher is not part of the school's establishment, s/he will not be replaced when sick or otherwise absent from school.
8. The authority may offer teachers of certain subject disciplines the possibility of retraining at the authority's expense for other subject areas where a demand exists. Other opportunities may also be available. Enquiries by surplus teachers should be directed in the first instance to the Principal Officer (Personnel).
9. The foregoing procedures do not relate to the cessation of PT posts in secondary schools due to the implementation of 'Structures for Learning'. Procedures governing these situations are set out in LNCT/21.

John Wilson
Director of Education
May 2011