

Local Negotiating Committee for Teachers – Agreement No.10

Procedures for the Voluntary/Compulsory Transfer of Surplus Promoted and Unpromoted Teachers in Primary and Secondary Schools

Agreed at LNCT – 20 December 2011

Agreed changes completed by Joint Secretaries 10 January 2012

1. Introduction

- 1.1 All employees including teaching staff are appointed to the service of West Dunbartonshire Council and not to a particular school. Although they have a contractual liability to transfer from one educational establishment to another, every effort will be made to minimise the number of compulsory transfers.
- 1.2 This procedure will apply to all permanent promoted and unpromoted staff. Former Senior Teachers, Assistant Principal Teachers and Principal Teachers who are conserved will be viewed as unpromoted staff for the purpose of this exercise.
- 1.3 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 wishes of the Teachers concerned, and the views of the Head Teacher.
- 1.4 The Council will make every effort to avoid compulsory redundancy whilst undertaking this exercise by re-deploying Teachers. Cognisance will also be given to the SNCT guidance regarding Mechanisms to Minimise costs in relation to conservation.
- 1.5 The Council will also explore all other options to resolve the surplus such as other potential placements, secondments etc. In these circumstances the individual will be expected to carry out duties up to the level commensurate with their salary.
- 1.6 Adjustments to the staffing entitlement of a school may also be considered as a temporary solution to support the Teacher remaining within the school. However these must be considered alongside budget constraints, e.g. entitlement to a Depute Head Teacher will not be given until the surplus Principal Teacher is transferred, retires or resigns.

- 1.7 Similarly, if the surplus was due to falling rolls the projected rolls for the next 2-3 years will be considered. If the projected increase would result in the existing management structure remaining, there will be no change implemented and surplus will not be declared.
- 1.8 If a surplus of teaching staff remains after the exercise has been conducted, the Council will normally endeavour to use a process of Council wide voluntary release/retiral in advance of implementing the Organisational Change procedure.
- 1.9 In the case of school closures or mergers, LNCT agreement No 3 will apply.

2. Type of Transfer

- 2.1 Every effort is made to overcome problems caused by having Teachers surplus to a school's establishment being transferred to suitable vacancies by seeking voluntary arrangements in the first instance. Only where this cannot be achieved within the relevant timescale will a Teacher be transferred compulsorily. There are therefore 2 modes of transfer:-

(1) Voluntary Transfer from a school with Identified Surplus Staff

- 2.1.1 Where it has been established that a primary school, or secondary department, is likely to have surplus staff in a coming session, the opportunity is given for the effected Teachers to put themselves forward to be nominated for transfer. In these circumstances the volunteer is treated in the same way as all other Teachers being compulsorily transferred.
- 2.1.2 Voluntary transfer may be considered for Teachers wishing personal development opportunities for one school year. Such requests will be dealt with after Teachers identified as surplus or Teachers who have volunteered to be treated as surplus are suitably re-deployed.

(2) Compulsory Transfer

- 2.1.3 Where school, or subject department, has more promoted or unpromoted 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 compulsorily transferred in accordance with these agreed procedures.
- 2.1.4 These procedures cover the identification of the individual Teacher(s) to be transferred compulsorily and accord certain benefits by way of a measure of protection from further transfer, some assistance with travelling expenses where these are additional to those currently incurred and the opportunity where all parties are agreeable to return to their original school should a suitable vacancy arise there within 2

years of the original transfer. The need for this should be clarified with the individual at the time of transfer

3. Procedures

- 3.1 The Executive Director of Educational Services, or their representative, will identify at as early a date as possible, schools in which reductions in teaching staff may be required and will inform the Trade Unions
- 3.2 The Executive Director of Educational Services or their representative will determine, after consultation with Head Teachers, the extent of the reductions, and the Head Teacher will in turn convey this information to **all** teaching staff at the earliest appropriate opportunity.
- 3.3 Head Teachers will meet with the affected group and advise them of the surplus, e.g. in a primary school all Depute Heads or Principal Teachers will be advised of Surplus Depute Head or Principal Teacher posts and **all** unpromoted staff will be advised of surplus in the unpromoted sector. In a secondary school the affected departments will be consulted to ascertain whether there is a volunteer for transfer.
- 3.4 The Head Teacher should also ascertain if any staff wishes to be considered for Early retirement/ Voluntary severance or entry into the Winding Down Scheme as this may remove the necessity to declare surplus. Any Teacher who intimates that they wish to utilise any of these options must put this request in writing for consideration. Once approved and agreed by the individual they will be held to this decision.
- 3.5 If there is no such volunteer, the Executive Director of Educational Services or their representative will decide which Teacher is to transfer through discussions with the relevant Head Teachers. They will consider the skills and experience of the individuals within the affected groups alongside the requirements of the receiving schools. This will be done using appropriate selection criteria which will be agreed through consultation with the relevant Trade Unions.
- 3.6 Should this fail to identify the individual who is to transfer, the Teacher within the affected school or Department who has the least total continuous service with West Dunbartonshire Council or its antecedent authorities will normally be required to transfer unless there are, in the view of the Executive Director of Educational Services or their representative strong reasons for deciding otherwise. In the latter event such decisions shall be communicated to the Trade Unions indicating the reason(s) for the decision.
- 3.7 This process is particularly relevant when seeking to transfer a promoted post where specialist requirements and experience are required. Guidance on the transfer process is developed in partnership with the Trade Unions and can be provided by the Educational Service Department.

- 3.8 The Head Teacher will personally inform individual Teachers who have been identified as surplus, and the decision will be confirmed in writing thereafter.
- 3.9 Any Teacher nominated for compulsory transfer will be formally notified by the Executive Director of Educational Services or their representative of the proposed transfer by a letter intimating the decision and extending an invitation to a meeting with the Head Teacher or Head of Service.
- 3.10 Any Teacher being compulsorily transferred will be informed of all known appropriate vacancies within West Dunbartonshire Council. Where more than one Teacher is interested in a vacancy selection will be by competitive interview of these staff.

4. Process for Filling Vacancies

- 4.1 When filling vacancies for the coming session the following are the Teachers who should be given priority when filling each establishment vacancy:
- (i) Teachers who have been transferred compulsorily within 2 years should be given the opportunity to return to their original schools should a vacancy arise at equivalent FTE pointage held by them at the time of transfer, subject to agreement with the Executive Director or their representative. Teachers who opt to return to their original school within the 2 year period will not be offered any protection from being compulsorily transferred in subsequent staffing exercises;
 - (ii) Teachers who are either volunteers from schools with staff surplus to establishment or who are to be transferred compulsorily should be offered the choice of all appropriate establishment vacancies within the Council.
 - (iii) In some circumstances, where no other appropriate vacancies exist across the various establishments, a general cover post may be offered after full consultation with the Teacher concerned and their Trade Union representative.
 - (iv) In the event that no vacancies are available the Council will seek expressions of interest from the affected sector and/or subject. Winding down, phased retirement, reduced hours, Voluntary early retirement / severance will also be considered. It may also be appropriate to investigate second subject / qualification to teach in another sector.
 - (v) Only once these above processes have been exhausted will the Organisational Change procedure be implemented.

5. Service Criteria for Selection for Transfer

- 5.1 The selection for transfer process will allow surplus promoted members of staff to be best matched in terms of skills, strengths and experience required for the vacant post. This process will not be used to judge competence. The rationale for the selection criteria will be shared with the candidates and feedback will be available.

- 5.2 All transfers will be agreed by a panel made up of Head of service or nominee, Head Teacher for receiving school and a Trade Union representative. An HR representative may also be in attendance if appropriate.
- 5.3 When it is a promoted post being filled and a Parent Council exists, the appropriate Department Officer will consult with the members when proposing that a surplus member of staff should fill a vacant promoted teaching post. Discussion should also take place with the Parent Council around the specific skills and competencies required for the post. The Department will make the final decision on whether to transfer and in this event the Parent Council has no further involvement in the appointment process.
- 5.4 Factors which may be taken into account in considering the nomination of a Teacher for compulsory transfer include the following:
- needs of the school including any specialist requirements,
 - Service and sector experience
 - Nature of current post
 - No of placements available
 - Current job sizing (promoted posts)
 - the personal circumstances of the Teacher and his/her suitability for known vacancies.
- 5.5 Only if all of the above are equal will the length of continuous service with the Council be considered.
- 5.6 Although the Council retains the right to place surplus promoted members of staff, it is important that the views of the affected staff are taken into consideration throughout this process.
- 5.7 Part-time teaching staff will be treated no less favourably than full-time teaching staff as outlined in 5.7 below.
- 5.8 For the purpose of identifying surplus staff, each Teacher within a job-share partnership will be credited with their own total continuous service. The period during which they were job-sharers will be treated as full-time service for each Teacher. This may result in the job-share partnership being disbanded with each partner being treated as an individual and being offered one of the following three options:
1. A permanent part-time position
 2. A permanent full-time position
 3. An alternative job-share partner elsewhere
- 5.9 Job-sharers may reserve the right to request to transfer voluntarily together to an appropriate full-time post identified. In these circumstances their service for ranking purposes (i.e. on the list of Teachers identified as surplus who gets first choice of all available schools) will normally be averaged unless this is

excessively detrimental to one party in which case discussion will take place with the Joint Secretaries as to the best approach to be taken.

- 5.10 When managing pointages of surplus e.g. 0.4FTE every effort will be made to minimise disruption and provide continuity of teaching within schools. It may be appropriate to discuss increase / decrease of hours, other subject specialisms, and split placement across schools. This will be done through full discussion with the appropriate Trade Union.
- 5.11 Part-time service from 20 January 2000 as recognised by the Part-Time Workers Regulations will be credited on a full-time equivalent basis for the calculation of total continuous service with the Council. Part-time service prior to that date will be credited on a part-time basis.
- 5.12 Where calculation of continuous service as referred to above produces identical results for 2 or more Teachers then consideration will be given to total actual service with the Council or its antecedent authorities, disregarding all breaks in service between contracts and reckoning part-time service on a full-time equivalent basis i.e. the Teacher with the least continuous service will be selected for compulsory transfer.
- 5.13 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.

6. General Conditions

- 6.1 A Teacher who is due to retire within 2 years will not normally be selected for transfer. If such a Teacher is identified as surplus due to having least continuous service within the school, discussion to determine the most appropriate course of action will take place with the Executive Director of Educational Services or their representative, the individual Teacher and, if requested, their Trade Union representative.
- 6.2 Teachers will not normally be allowed to volunteer to transfer once the list of all known available posts within the Council is distributed, which will normally be before Easter of each year.
- 6.3 A Teacher who is pregnant will not normally be liable to be transferred.
- 6.4 A Teacher transferred compulsorily will not normally be transferred again within a period of 2 years.
- 6.5 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 in line with current council policy.
- 6.6 At any stage of transfer the Teacher will have the opportunity, if so desired, to discuss the matter with the Executive Director of Educational Services or their

representative and be accompanied by a representative of their Trade Union/Association.

7. Salary Conservation

- 7.1 Where a surplus Teacher is transferred to a post which has a higher salary, then they will be paid the salary for that post.
- 7.2 Where a surplus Teacher is transferred to a post which has a lower salary, the salary conservation arrangements as set out in the Scottish Negotiating Committee for Teachers Handbook of Conditions of Service will apply.
- 7.3 Where a surplus Teacher is offered a suitable post and unreasonably refuses on 2 occasions to accept proposed placements, then in accordance with the Scottish Negotiating Committee for Teachers Handbook of Conditions of Service there shall be no entitlement to conservation of salary. Subsequent placement would be at the behest of the Department.

8. The Timing of the Main Transfer Programme

- 8.1 The Executive Director of Educational Services or their representative will liaise with the Head Teacher to 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.
- 8.2 Individuals nominated for transfer will be notified in writing by the Council at the earliest possible date.
- 8.3 The normal notice for transfer will be 1 month, excluding holidays, but where, for good educational reasons, it is not possible to provide this notice the Executive Director of Educational Services or their representative will discuss the timing of the transfer with the Teachers' Convenor.
- 8.4 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:-
- (i) the need to break down projected rolls on a school by school basis;
 - (ii) the effect of placing requests made by parents on the distribution of pupils;
 - (iii) 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;
 - (iv) the fact that Teachers 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
 - (v) the fact that Teachers can request winding down, stepping down or actuarially reduced retirement at any time;

(vi) the timing of placement of Teachers on the Induction Scheme

8.5 Note - the allocation of Probationer Teachers cannot cause surplus in an establishment. However if a Probationer Teacher is allocated to a school this may obviate the need for a compulsory transfer into that school.

8.6 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 Council'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.

GUIDELINES FOR THE TIMING OF THE MAIN TRANSFER PROGRAMME FOR PROMOTED AND UNPROMOTED TEACHERS

January/February

- Estimated pupil rolls for the coming session finalised with Head Teachers and staff entitlements revised.
- Timetabling undertaken to reflect pupil choices and staff availability. Head Teachers notify of subjects where surplus staff anticipated.
- Where surpluses expected, Head Teacher to discuss with staff within the Primary School or in Secondary schools the subject department and seek voluntary transfer or expressions of interest in winding down.
- Where no volunteers, HR Business Partner/ESO - Staffing calculate who would be member of staff compulsorily transferred and notify head Teacher.
- Trade Unions notified by HR Business Partner of schools affected.

March/April

- Target date of 31 March for receipt of placing requests from parents
- Adjustment to estimates of staff entitlement where necessary following placing request decisions.
- The effect of granting voluntary transfer requests considered.
- The Council will consider the necessity for a Premature Retiral Scheme.
- Teachers who will require to be transferred on a voluntary or compulsory are invited to a meeting with the Executive Director of Educational Services or other appropriate senior officers and trade union representatives.
- Choice of all known vacancies to be offered to surplus Teachers with consideration being given on a length of service basis.
- Surplus Teachers for whom there are currently no suitable posts to be informed of situation.
- Identify suitable posts for Probationer Teachers on the Teacher Induction Scheme.

May

- Individual meetings with surplus Teachers, where requested. Staffing exercise continued with consideration of placement of Teachers currently on fixed term contracts, and of placing of Probationer Teachers on Teacher Induction Scheme.
- Continued efforts made to seek changes which eliminate need for compulsory transfer.
- Resolution of cases of transfer difficulty, if any, with appropriate Trade Unions

June

- Remaining transfers effected as necessary with as much notice as possible (in normal circumstances – 1 month) being given to the Teachers concerned.