



MIDLOTHIAN NEGOTIATING COMMITTEE FOR TEACHERS

Procedures for the Transfer of Surplus Promoted Teaching Staff

1. Introduction

1.1 The Scottish Schools (Parental Involvement) Act 2006 and the Parental Involvement in Head Teacher and Deputy Head Teacher Appointments (Scotland) Regulations 2007 gives local authorities the powers to transfer surplus Head Teachers and Depute Head Teachers.

1.2 This document outlines the Directorate's procedures for the Transfer of Surplus Promoted Teaching Staff and takes account of the requirement for parental involvement.

1.3 This policy builds on the procedures agreed for the transfer of teaching staff.

1.4 A policy implementation timeline which takes into account applications for ARP, Phased Retirement and Early Release/Voluntary Severance will be agreed on an annual basis at the MNCT.

2. Scope

2.1 The Act refers only to Head Teachers and Depute Head Teachers but to ensure a consistent approach to the management of surplus promoted members of staff within the Directorate, these procedures apply to all promoted teaching posts in all sectors.

2.2 It is likely that the review of management structures in secondary schools will result in some posts being in excess of the number required, although anticipated rises in rolls will need to be taken into account where schools are marginally above their points' allocation.

2.3 There may be exceptional circumstances, such as serious illness, which would lead to a promoted member of staff not being subject to compulsory transfer.

2.4 Where a promoted member of staff has been transferred, he/she will not be required to transfer again in the same session.

2.5 A promoted member of staff will, where possible, be transferred to a post at the same job-size point but this may not be possible in all circumstances. No promoted member of staff under the terms of this policy will be transferred to a higher level of post than that which he/she presently holds.

2.6 A promoted teacher who by the end of February in any year is known to be pregnant will not be placed on the transfer list. A promoted teacher who makes known her pregnancy between the end of February and 31 May will not normally be asked to transfer. A promoted teacher who declares her pregnancy after 31 May will not be granted exemption from the transfer process.

2.7 Promoted teachers who are on maternity/adoption/paternity leave will be reminded that they have the right to return to the same school.

2.8 A promoted teacher who is on maternity/adoption/paternity leave and who returns to duty before 31 May will not be exempt from selection for transfer in the following session. Similarly a promoted teacher who confirms that she/he will return to duty after 31 May but before the end of the school session will not be exempt from transfer from August after her/his return to school

2.9 In the case of a job share post, where there is only one post that can be subject to transfer in that subject in the establishment, both partners will be transferred to a new school together under the same sharing arrangements as before. In a situation where more than one promoted post holder works in the subject area (e.g. Guidance dept.) and one post is deemed to be in excess of complement, should no individual/s volunteer to transfer further advice will require to be taken at the time.

3. Procedures to be followed

Consultation

3.1 Where a Parent Council exists, the appropriate Schools' Group Manager will consult with the members when proposing that a surplus member of staff should fill a vacant promoted teaching post at DHT or HT level. Discussion will also take place with the Parent Council around the specific skills and competencies required for the post. The Directorate will make the final decision on whether to transfer and in this event the Parent Council has no further involvement in the appointment process.

3.2 Where it is decided that a school has posts in excess of the permitted complement, the Head of Education will notify the Head Teacher of the number in excess of complement. The teacher unions will be informed of the position in each school.

3.3 Head Teachers should ensure that promoted teachers who are on maternity/adoption/paternity leave or on secondment or a career break etc are contacted formally should their schools have posts in excess of complement.

All promoted teachers in excess of complement in all sectors

3.4 When each Midlothian secondary school has completed the review of its promoted post structures and a school finds it has a promoted post vacancy then the post will not be advertised if there is a suitable surplus member of staff within Midlothian. Where the Head of Education considers that there are no suitable surplus members of staff, then the post will be released for filling as appropriate.

3.5 The process to transfer surplus promoted staff will require the support and co-operation of Head Teachers/Heads of Establishment. Understandably, while Head Teachers/Heads of Establishment may have a preference for having an open and competitive process, the needs of the service must take priority.

3.6 The Directorate will maintain a record of surplus promoted members of staff to assist in identifying transfer opportunities. All surplus promoted members of staff have the right to information about any available vacancies. All vacancies which arise will be circulated to all surplus staff at the appropriate grade. Promoted staff may indicate interest in posts which are vacant if they wish to be considered for transfer. The expression of interest in a post will be taken as a commitment to transfer.

3.7 The Head of Education will endeavour to minimise the number of transfers against teachers' wishes. Additionally in considering transfers, due regard will be given to the criteria of distance and facility of travel.

3.8 Each surplus promoted member of staff should complete a personal profile form highlighting her/his skills, competencies and experience in order to facilitate the transfer process.

3.9 The surplus promoted member of staff may be accompanied by a trade union representative, friend or colleague at meetings about the transfer process, if he/she wishes.

The matching/placing process

3.10 Where there is only one promoted member of staff in excess of complement who wishes to transfer to a vacant post, then s/he will be transferred.

3.11 Where more than one promoted member of staff who is in excess of complement wishes to be transferred to a vacancy, a matching process will allow them to be best matched in terms of skills, strengths, experience and current size of post in relation to the vacant post. Consideration of length of service will be applied only if other factors are equal. Service refers to all service in Midlothian (and Lothian) and not just within the current school. The matching process will not be used to judge competence. The rationale of the matching will be shared with the candidates and following the final decision feedback will be made available by the Head of Education to those who have not been placed.

3.12 Although the authority retains the right to place promoted members of staff in excess of complement, it is important that the views of the affected staff are taken into consideration throughout this process.

3.13 The matching process for all promoted posts will be conducted by the Head of Education and a Schools' Group Manager. It is anticipated that promoted teachers who are to be transferred will know of their new school by the beginning of June.

3.14 Where there is no immediate suitable permanent vacant post available for an individual, the Schools' Group Manager will discuss the situation with the promoted member of staff in excess of complement and it may be that s/he will be asked to undertake a temporary placement until a suitable permanent post becomes available and is secured or until the situation is otherwise resolved. Such a temporary placement may be to any other teaching post or position within the authority and the individual will be expected to carry out duties up to a level commensurate with her/his salary.

3.15 Should a suitable vacancy occur during the course of a secondment/temporary placement, a decision on whether to allow the staff member to complete the secondment/temporary placement before being allocated to her/his new substantive post will be taken by the Schools' Group Manager, subject to the needs of the service.

3.16 Where an alternative post has not been able to be found, the situation will be reviewed by the Head of Education and other options to resolve the situation will be explored.

3.17 The Head of Education retains the right to make the final decision in the placing of surplus promoted members of staff.

The transfer process

3.18 In normal circumstances, the date of transfer will be notified one month in advance and earlier if possible. There may be occasions when it is in the interest of the individual for the transfer to happen more quickly. It will normally be the case that a permanent redeployment will begin at the start of a session.

3.19 The transferred promoted member of staff will normally have the right to return to her/his original school for one year after transfer, should an appropriate vacancy arise. It will be incumbent upon the transferred promoted member of staff to make such a request. However, it must be recognised that there may well be special circumstances related to the curriculum needs of pupils or to the service overall which have to be taken into account.

3.20 Should a surplus promoted member of staff choose to apply for a post to which he/she has not been matched, he/she will proceed under standard recruitment and selection procedures.

4. Depute Head Teachers who become surplus as a result of a falling school roll – primary sector

4.1 Normally surplus Depute Head Teacher posts will be declared on an annual basis as part of the annual Teaching Staff Return exercise normally conducted at the beginning of each calendar year.

4.2 In the case of a Depute Head Teacher becoming surplus to requirements as a result of a falling school roll, the Head Teacher has the responsibility to declare that post surplus. The additional cost to the school will be met in accordance with Devolved School Management procedures.

4.3 In the event that there is more than one Depute Head Teacher in the school, the Head Teacher will firstly seek a voluntary solution. Where it is necessary to nominate a Depute Head Teacher for transfer, regard will be given to the needs of the school, the suitability of the Depute Head Teacher for known vacancies, the personal circumstances of the Depute Head Teacher and, where appropriate, length of service with the authority. In some instances, the Head Teacher may not wish to declare the post surplus but fund the post from her/his budget. In this case, the costs will be met in full by the school and the post will not become subject to transfer arrangements.

5. Salary conservation

5.1 Where a surplus promoted teacher is transferred to a post which has a higher salary, then he/she will be paid the salary for that post.

5.2 Where a surplus promoted 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.

5.3 Where, in the opinion of the Head of Education, a surplus promoted teacher unreasonably refuses on two 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 Directorate.

6. Travelling expenses

6.1 Where transfer involves workplace relocation, employees will receive excess travelling expenses in accordance with Scottish Negotiating Committee for Teachers' Handbook of Conditions of Service.

7. Right of appeal

7.1 An employee who is dissatisfied with any decision in relation to the application of this procedure will have recourse to the Council's Grievance Procedure for Teachers.

8. Review

8.1 This agreement will be reviewed one year after implementation or earlier if either Joint Secretary requests.

9. Local agreement

9.1 This local agreement has been reached in the MNCT and is consequently binding on the signatory parties. It may be adjusted by negotiation to meet changing future needs.