
MNCT AGREEMENT ON THE TRANSFER OF TEACHING STAFF IN SCHOOLS

1 Introduction

- 1.1 The selection of teachers for compulsory transfer is a complex task which requires to take into account a number of factors including the curricular and organisational requirements of the school, the views of the Head Teacher and the wishes of the teachers concerned. The process for identifying vacancies will take into account matters such as school roll fluctuations, applications for Actuarially Reduced Pension and Winding Down. This Policy details the general conditions and procedures which will apply in making such transfers. Information about the timescale for the operation of the procedures is set out in Section 3 below.

2 General Conditions and Procedures

- 2.1 There should exist an opportunity for staff to be represented by a Trade Union representative or a friend when meetings take place with officials of the Education, Communities and Economy Directorate to discuss compulsory transfers.
- 2.2 It should be noted that, although all teachers employed by the Council have a contractual liability to transfer from one educational establishment to another, every effort will be made to minimise the number of such transfers against teachers' wishes. Voluntary solutions to staff transfers will therefore be sought whenever possible. There must, however, be a firm commitment made by volunteers. Once a volunteer has come forward he/she will be treated in the same way as a compulsory transferee. It is recognised that it would be unfair to other members of staff if the volunteer subsequently withdrew his/her offer.
- 2.3 In considering the nomination of a teacher for compulsory transfer, regard will be had to: -
- (a) the needs of the school;
 - (b) the suitability of the teacher for known vacancies;
 - (c) the personal circumstances of the teacher; and
 - (d) where appropriate, length of service with the Council and not just the particular school.

In selecting a teacher for transfer the needs of the service are regarded as paramount. In considering redeployments due regard would be given the criteria of distance and facility of travel. The Directorate upholds the principle of equal opportunities for all staff and accept that where the criteria of "length of service" is applied, all staff, whether full time, part time or job share, should receive consistency of treatment. In circumstances however where "last in, first out" is not to apply, then the Head Teacher will identify the reasons for the decision.

2.4 Where a teacher is nominated for compulsory transfer on the basis of "last in, first out" previous service with Midlothian Council and its predecessors will be taken into account as follows: -

- (a) maternity leave/adoption leave /parental leave shall count as teaching service in full. Provided the teacher returns to service during the period when the statutory right of return applied, the period between the ending of maternity leave/adoption leave and the recommencement of service shall count as teaching service in full;
- (b) where for any reason, other than disciplinary action, the teacher has a break in service, the maximum allowable period of that break shall be eight years. Teaching service which occurred before a break of eight years or less shall count in full. Where the break is more than eight years no previous service shall be allowed;
- (c) where for any reason, other than disciplinary action, the teacher has more than one break in service, these breaks in service shall be aggregated. The maximum allowable aggregate shall be eight years. Provided the aggregate of breaks in service is less than eight years, all period of intervening teaching service shall count in full. Where the breaks in service amount to more than eight years, only the service accumulated between the breaks totalling not more than eight years in the period immediately preceding the return shall be credited;
- (d) the aggregate of teaching service arrived at under (b) or (c) above shall be used in the determination of the teacher eligible for compulsory transfer under the "last in, first out" principle;
- (e) the principle in (d) above shall be applied in the context of the grade of post and, where appropriate, the Department of the School where the new staffing level dictates that a reduction in staffing should be made, not in the context of the whole school;
- (f) where two teachers or more have equal service with the Council, consideration will be given to the criteria specified in paragraph 2.3 of these procedures and full consultation will take place with the teachers concerned and their representatives prior to a final decision. A teacher dissatisfied with the decision will have access to the Council's Grievance Procedure.

- (g) in the case of a job share post, the continuous service of the longest-serving partner is the service that is considered relevant. If a 1 FTE reduction in staffing is required in a school/department and the job-share post is identified as the post which is in excess of complement then, unless one or both job share partners request otherwise, both partners require to be transferred to a new school together under the same sharing arrangements as before.
- 2.5. Teachers who are being compulsorily transferred will be placed in vacancies before posts are given to NQTs.
- 2.6 Teachers who are to be transferred will be transferred to fill a permanent post. They will not (unless by mutual agreement) be transferred to cover absences arising from secondments, maternity leave or other periods of teacher absence.
- 2.7 A teacher who by the end of February in any year is known to be pregnant will not be placed on the transfer list. A teacher who makes known her pregnancy between the end of February and 31 May will not normally be asked to transfer. Teachers who declare their pregnancy after 31 May will not be granted exemption from the annual transfer arrangements (see Section 3 below).
- 2.8 Teachers on maternity leave will be reminded that they have the right to return to the same school. A teacher who is on maternity leave and who returns to duty before 31 May is not exempt from selection for transfer in the following session. Similarly if a teacher confirms that she will return to duty after 31 May but before the end of the school session she would not be exempt from transfer since this would satisfy the teacher's right to return to the same school. Head Teachers should ensure that a teacher on maternity leave who is nominated for transfer is contacted formally and that the normal procedures for compulsory transfer are adhered to.
- 2.9 Transferees will normally have the right to return to their original school continued for one year after transfer should an appropriate vacancy arise. It will be incumbent upon the teacher to make such a request. It must be recognised however that there may well be special circumstances relating to the curriculum needs of the pupils which will have to be taken into account.
- 2.10 The Education Service will make every effort to minimise the number of re-transfers in a short timescale.
- 2.11 Teachers in the primary school sector will not be required to transfer in successive sessions. Teachers in the secondary school sector will not be required to transfer in successive sessions except in cases where not to do so would involve the transfer of a promoted member of staff.
- 2.12 All transferees have the right to information about vacancies. Compulsory transferees will be provided with information about relevant vacancies before such posts are advertised.
- 2.13 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 interests of the individual to transfer more quickly.

- 2.14 Posts, including promoted posts, will not be filled other than by redeployment if a suitable teacher who has been nominated for compulsory transfer is available. No teacher will be transferred to a more senior post than that which he/she presently holds.
- 2.15 The holder of a promoted post who is compulsory transferred will be entitled to conservation of salary if applicable but not to conservation of grade of post in terms of the Scottish Negotiating Committee for Teachers Scheme of Salaries and Conditions of Service.
- 2.16 Additional home to work travel expenses incurred by a transferred teacher (including voluntary transfer) will be reimbursed in accordance with the relevant provisions of the National Scheme of Conditions of Service.
- 2.17 It is important that appropriate arrangements are made within schools for welcoming compulsory transferees when they visit a school prior to transfer.
- 2.18 It is important for recognition to be given to a positive aspect of the transfer scheme in that it does afford opportunities for staff to broaden their experience. Every effort should be made by Head Teachers to ensure that a transferee does not feel that he/she has failed in some way.

3 Timescales

- 3.1 The detailed timetable for the compulsory transfer process will be discussed and confirmed at the first meeting of the MNCT in each calendar year. The normal pattern will be as follows:
- (a) The Head of Education will identify at an as early a date as possible in February/March the schools in which reductions in teaching staff may be required and will inform local secretaries of the teacher organisations represented on the MNCT by 31 March.
 - (b) The Head of Education will determine, after consultation with the Head Teachers concerned, the extent of the reductions and the subject area/s in secondary schools which will be affected, having regard to anticipated pupil rolls for the coming session. This information will be shared with the local union secretaries for their information only. Head Teachers will convey this information to teaching staff by 22 April.
 - (c) The entire unpromoted teaching staff of an affected subject department or a primary school will be consulted at this stage to ascertain if there is a volunteer for transfer or if there are any late applications for Winding Down or Early Retirement / Voluntary Severance. The impact of the latter two possibilities should be considered first as it may remove the necessity to declare a teacher in excess to complement. (Any teacher who intimates he/she wishes to wind down must put this request in writing at which point this will be regarded as a formal application).

- (d) Where a volunteer to transfer is required, staff normally will have at least five working days to consider the matter. Where there is no such volunteer, the Head of Education will decide the day after the voluntary period has elapsed, on 29 April, which teacher is to transfer.
- (e) The teacher nominated for compulsory transfer will be informed of the proposed transfer and will receive a formal letter intimating the decision to transfer and the reasons for it by 6 May. The letter also will invite them to a meeting, normally within 5 working days, to consider vacancies. A copy of the compulsory transfer policy will be enclosed.
- (f) Where possible teachers who are to be transferred will be told of all the vacancies at the time of the letter being written.
- (g) Teachers to be transferred will be able to visit up to three schools with vacancies, should they so wish. Visits normally should be completed during May.
- (h) It is anticipated that teachers who are to be transferred normally will know of their new school by the beginning of June at the latest.
- (i) Revised contracts will be sent by the end of June to teachers being transferred to another school.

4 Grievances

- 4.1 If a teacher is dissatisfied by their placement under the terms of these procedures, he/she has the right of appeal under the Council's Grievance Procedure.

5 Review of Policy

- 5.1 This Policy will be reviewed by the MNCT within twelve months.