

EAST AYRSHIRE COUNCIL

JOINT NEGOTIATING COMMITTEE FOR TEACHING STAFF – 12 FEBRUARY 2009

JNCT CIRCULAR 18: PROCEDURES FOR THE COMPULSORY TRANSFER OF SURPLUS UNPROMOTED TEACHERS IN SCHOOLS

Report by Executive Director of Educational and Social Services

1. PURPOSE

- 1.1** To seek agreement on a revised scheme for the compulsory transfer of surplus unpromoted teachers in schools.

2. BACKGROUND

- 2.1** The procedures for the compulsory transfer of surplus unpromoted teachers have been inherited from the former authority. A working party was set up to revise these procedures.

3. PROPOSAL

- 3.1** The proposed procedures are attached as Appendix 1 to this report.

4 POLICY / FINANCIAL/COMMUNITY PLANNING/RISK IMPLICATIONS

- 4.1** None

5 RECOMMENDATIONS

- 5.1** It is recommended that Members:-

- (i)** agree the attached procedures for the compulsory transfer of surplus unpromoted teachers.
- (ii)** otherwise note the contents of the report.

Graham Short
Executive Director of Educational and Social Services

AS/KG
27 January 2009

Members requiring further information should contact Andrew Sutherland, Head of Service: Schools (01563) 576126

LIST OF BACKGROUND PAPERS

Nil

Implementation Officer: Andrew Sutherland, Head of Service: Schools

**EAST AYRSHIRE COUNCIL
DEPARTMENT OF EDUCATIONAL AND SOCIAL SERVICES**

**PROCEDURES FOR THE COMPULSORY TRANSFER OF SURPLUS UNPROMOTED
TEACHERS IN SCHOOLS**

1. Introduction

Although schools have delegated authority to appoint teachers, unpromoted teachers are appointed to the service of the authority and not to a particular school. Although all teachers have a contractual liability to transfer from one educational establishment to another, every effort will be made to minimise the number of compulsory transfers. 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.

2. Types of Transfer

Every effort is made to overcome problems caused by having teachers surplus to a school's establishment transferred to real 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 3 modes of transfer:-

2.1 Voluntary transfer from a school with identified surplus staff

Where it has been established that a primary, nursery or special school is likely to have surplus unpromoted staff in the coming session, the opportunity is given for teachers to put themselves forward to be nominated for transfer. Similarly in the case of a secondary school, where a subject department has surplus unpromoted staff, the opportunity is given for teachers in that subject department to volunteer for transfer. In these circumstances the volunteer is treated in the same way as all others compulsorily transferred and enjoys the same benefits as laid down for teachers transferred compulsorily.

2.2 Compulsory Transfer

Where a school has more 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.

2.3 Holding Transfer

Where no permanent full-time vacancy is available at the time of transfer a teacher may be required to transfer on a temporary basis to another school(s) which has/have a part-time vacancy(ies) or temporary post(s), until a full-time vacancy becomes available. During the period until a permanent transfer takes place the

teacher will continue to have the same access to in-service training, CPD opportunities etc as permanent teachers in schools with approved costs if necessary being met centrally.

A teacher still on a holding transfer after a year will be offered a professional interview to ascertain all options available including retraining.

These procedures cover the identification of the individual teacher to be transferred compulsorily and accord certain benefits by way of a measure of protection from further transfer, some assistance with travelling expenses and the opportunity, where possible, to return to their original school should a suitable vacancy arise there within two years of the initial transfer.

3. Procedures

- 3.1 The HR Manager (Schools) will identify at as early a date as possible schools in which reductions in teaching staff may be required and will inform local secretaries of teachers organisations represented on the Joint Negotiating Committee (JNCT).
- 3.2 The HR Manager (Schools) will determine, after consultation with the head teacher, the extent of the reductions, and the head teacher will in turn convey this information to their teaching staff at the earliest opportunity. Head teachers of secondary schools will only be able to declare an unpromoted 1FTE subject teacher surplus to a school's requirements when the requirement for the post falls below 0.5FTE. The basis of how this reduction is arrived at will have to be transparent. Where a school's requirement is between 0.51FTE and full time the school will be expected to absorb this in their overall staffing. All requests for transfer will be reviewed on a case by case basis by the HR Manager and Head Teacher.
- 3.3 The entire unpromoted teaching staff of an affected school (nursery, primary or special) will be consulted to ascertain whether there is a volunteer for transfer. In a secondary school the unpromoted teachers of the affected subject will be consulted, to ascertain whether there is a volunteer for transfer. If there is no such volunteer, the HR Manager (Schools) acting on behalf of the Executive Director of Educational and Social Services will decide which teacher is to transfer. The teacher with least total continuous service with the authority and its predecessors will normally be required to transfer unless there are, in the view of the Executive Director of Educational and Social Services strong reasons for deciding otherwise and in the latter event such decisions indicating the reasons shall be communicated to the local association secretaries represented on the JNCT prior to the transfer being affected.
- 3.4 The teacher nominated for compulsory transfer will be informed by the HR Manager (Schools) of the proposed transfer and will receive a formal letter intimating the decision to transfer and the reasons for it.
- 3.5 Any teacher being compulsorily transferred will be allowed the choice of all known appropriate vacancies. Where more than one teacher is interested in any vacancy it will be offered to the teacher with the longest continuous service.

3.6 As the authority endeavours to offer the widest choice of posts (as and when they arise) to teachers being compulsorily transferred it is not always possible to adhere to a rigid timetable.

4. **General Conditions**

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.
- (ii) teachers who become surplus to establishment as a result of a school closure or amalgamation should be offered the choice of all appropriate establishment vacancies.
- (iii) teachers who have undertaken retraining because they are in a compulsory transfer position should be offered a choice of all appropriate vacancies in their new sector/subject or in a combination of their old and new sector/subjects in accordance with the wishes of the teacher and the exigencies of the service.
- (iv) 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.

4.2 Factors which may be taken into account in considering the nomination of a teacher for compulsory transfer include the needs of the schools, the length of continuous service with the authority and its predecessors, the personal circumstances of the teacher and their suitability for known vacancies.

4.3 For the purpose of determining liability to transfer in a situation of surplus the under noted will not be regarded as constituting breaks in service, neither will they count as service.

- (i) holiday periods between contracts.
- (ii) lapses of employment of no more than 10 working days.
- (iii) 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.

4.3.1 Periods of maternity/paternity/adoption leave not exceeding 52 weeks will not be regarded as constituting breaks in service and will be counted as service for the purpose of compulsory transfer.

4.3.2 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 not count as service for the purpose of identifying a teacher as surplus to the establishment of a particular school.

- 4.4 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 job sharer with the longest service will be credited to the post. Thereafter service will be credited to the post being job-shared at the normal rate.
- 4.5 Part-time service end-on to full-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.
- 4.6 Where calculation of continuous service as referred to above produces identical results for two or more teachers then regard would be taken of the total actual service with the authority and its predecessors and reckoning part-time service on a full-time equivalent basis.

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.

- 4.7 A teacher over 58 years of age will not normally be compulsorily transferred.
- 4.8.1 A pregnant teacher should not be liable to compulsory transfer.
- 4.8.2 A teacher on maternity/paternity/adoption/leave will be treated no more or less favourably than other teachers when an assessment was made as to who would be transferred.
- 4.9 A teacher transferred compulsorily will not normally be transferred again within a period of 2 years.
- 4.10 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 for 4 years where expenses in excess of £2.84 per week are incurred.
- 4.11 A teacher who is compulsorily transferred will have the opportunity of returning to the school from which they transferred should a suitable vacancy arise within 2 years of the initial transfer.
- 4.12 At any stage of transfer the teacher will have the opportunity if so desired, to discuss the matter with the Executive Director of Educational and Social Services or other senior officer and be accompanied by a representative of his/her association.

5. The Timing of the Main Transfer Programme

- 5.1 Head Teachers will 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. This would normally be by the end of January for transfer the next session.

- 5.2 Individual teachers nominated for transfer will be notified in writing at the earliest possible date and kept informed of transfer arrangements. For a transfer at the start of the next session individual teachers should expect to be notified by the end of March, however with unexpected changes in roll, promoted post appointments etc this is not always possible. However as much notice as practicable will be given to a teacher who is being transferred.
- 5.3 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;
 - (v) the need to take account of changes in staff entitlements brought about by the difference between estimated and actual pupil numbers at the start of a new session;
 - (vi) 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;

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 teachers being compulsorily transferred the choice of more suitable posts should such become available, this precludes the establishment of a rigid timetable for transfer. However the authority are committed to keeping affected teachers informed and it would be anticipated that discussions would take place with the teachers expected to transfer in the next session by the spring break with where possible all transfers arranged by the end of the summer term.

27 January 2009