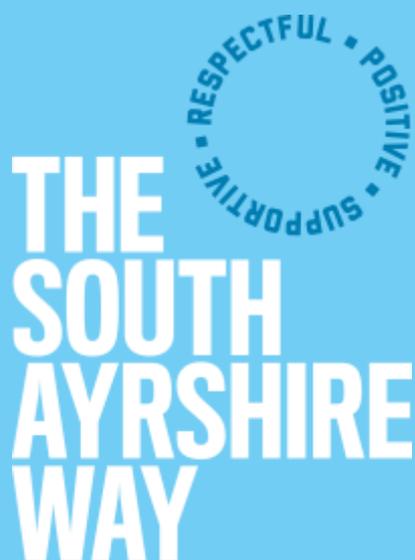


**South Ayrshire Council
Joint Negotiating Committee
For Teachers**

**Compulsory Transfer Procedures
(Unpromoted Teaching Staff)
(JNCT2.2b)**



Reference:

JNCT2.2b

Version Control

Version	Date Issued	Last Review Date	Author	Update Information
1		April 2018	C Douglas	
2		April 2021	K McKay	Updated template

1. Introduction

Unpromoted staff 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.

This procedure will apply to all permanent unpromoted teaching staff, full-time or part-time. Former Senior teachers, former Assistant Principal Teachers and Principal Teachers who are conserved will be viewed as unpromoted staff for the purposes of this exercise.

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.

The Authority will make every effort to avoid compulsory redundancy whilst undertaking this exercise by redeploying teachers. If a surplus of teaching staff remains after the exercise has been conducted, the Authority will normally endeavour to use a process of voluntary release / retiral.

Depending on the demands made from schools, a separate surplus staffing exercise may require to be conducted for teachers in the permanent pool.

A separate procedure will be used in the case of school closures or mergers.

2. Type of Transfer

Every effort is made to overcome problems caused by having teachers surplus to a school's establishment 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:-

2.1 Voluntary transfer from a school with identified surplus staff

Where it has been established that a subject department in a secondary school is likely to have surplus unpromoted staff in a coming session, 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 and enjoys the same benefits as laid down for teachers transferred compulsorily.

2.2 Compulsory Transfer

Where a subject department in a secondary 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.

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 and the opportunity where possible to return to their original school should a suitable vacancy arise there within 2 years of the original transfer.

3. Procedures

- 3.1 The relevant Senior Manager 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 teacher organisations represented on the Joint Negotiating Committee for Teachers.
- 3.2 The relevant Senior Manager 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 opportunity.
- 3.3 The entire unpromoted teaching staff of an affected school, or subject department in secondary, will be consulted to ascertain whether there is a volunteer for transfer. The Head Teacher should also ascertain if any unpromoted teaching staff wish to be considered for entry into the Winding Down Scheme as this may remove the necessity to declare a surplus teacher. Any teacher who intimates they wish to wind down must put this request in writing and, in normal circumstances, will be held to this decision.
- 3.4 If there is no such volunteer apply Section 5.1 below will be used to identify which teacher requires to transfer unless there are, in the view of the Council, strong reasons for deciding otherwise. In the latter event such decisions indicating the reasons shall be communicated to the Joint Secretaries of the JNCT prior to the transfer being effected.
- 3.5 The Head Teacher will personally inform individual teachers who have been identified as surplus and advise them they will be contacted by the Authority.
- 3.6 The teacher nominated for compulsory transfer will be formally notified by the staffing team of the proposed transfer and will receive a written communication intimating the decision to transfer and extending an invitation to the Surplus Teachers' meeting.
- 3.7 Any teacher being compulsorily transferred will be offered the choice of all known appropriate subject vacancies within South Ayrshire Council, including those in the permanent peripatetic supply pool. Where more than one teacher is interested in any vacancy it will be offered to the teacher with the longest total continuous service.

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 pointage held by them at the time of transfer;
- (ii) teachers who opt to return to their original school within the two year period will not be offered any protection from being compulsorily transferred in subsequent staffing exercises
- (iii) 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 South Ayrshire Council including those within the permanent peripatetic supply pool.
- (iv) In some circumstances, where no other appropriate vacancies exist, a split site or general cover post may be offered after full consultation with the teacher concerned and their trade union representative.

5. Service Criteria for Selection for Transfer

- 5.1 Where no volunteer emerges or where the identification of a suitable volunteer is not appropriate then agreed criteria will be applied in identifying the appropriate transferee eg continuous service with South Ayrshire Council or its antecedent authorities, appropriate skills and relevant post-specific experience; personal circumstances of teacher in relation to equalities or other relevant legislation
- 5.2 Part time teaching staff will be treated no less favourably than full time teaching staff as outlined in 5.6 below.
- 5.3 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:
 - 5.3.1 holiday periods between contracts;
 - 5.3.2 lapses of employment of no more than 5 working days; and
 - 5.3.3 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.
 - 5.3.4 Periods out of service solely for the purpose of child rearing for a period not exceeding 6 years. However, any teaching service on a fixed term contract during the period out of service will be counted.
 - 5.3.5 Where in exceptional circumstances, a teacher is granted special unpaid leave outwith term time for reasons of a personal nature;

5.4 The undernoted will not be regarded as constituting breaks in service, and will count as service:

5.4.1 Periods of unpaid maternity leave not exceeding 29 weeks both before and after 15 May 1975 and/or periods of maternity leave after 6 April 2003 which do not exceed 52 weeks in total.

5.4.2 Periods of parental leave, for male or female teachers, in accordance with the EC Parental Leave Directive.

5.4.3 Periods of paid and unpaid leave formally agreed under the Teachers' Sickness Scheme.

5.5 Case law has shown that it is illegal to average the service of job sharers when identifying them for compulsory transfer or redundancy. For the purpose of identifying surplus staff, teachers within a job share arrangement will be credited with the service of the longest serving member of the partnership. If this results in these post holders being declared surplus they will normally be moved together to an alternative shared post. When service is being ranked for placing on list for vacancies, again the service of the longest serving member will be used.

After being identified as surplus, in certain circumstances, consideration may be given to requests from job sharers to have the arrangements disbanded thereby allowing each partner to have a choice of other permanent part time employment within the Authority. If this does happen then each partner will be credited with their own continuous service for the purpose of ranking for alternative employment.

5.6 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 authority. Part time service prior to that date will be credited on a part time basis.

5.7 Where calculation of continuous service as referred to above produces identical results for two or more teachers then regard would be had to total actual service with the authority or its antecedent authorities, disregarding all breaks in service between contracts and reckoning part-time service on a full-time equivalent basis ie the teacher with the least continuous service date on their contract of employment will be selected for compulsory transfer.

Where this further calculation fails to resolve the issue then the teacher to be compulsorily transferred will be chosen through a fair selection process agreed in advance by the Joint Secretaries of the JNCT.

6 General Conditions

6.2 Teachers will not normally be allowed to volunteer to transfer once the list of all known available posts within the Authority is distributed, which will normally be around Easter of each year.

6.3 A teacher transferred compulsorily will not normally be transferred again within a period of 2 years.

- 6.4 A teacher transferred compulsorily or one who volunteers in a school where a transfer has to be arranged will be entitled to excess travelling at the rates and for the duration outlined in the Council's Travel and Subsistence Policy.
- 6.5 At any stage of transfer the teacher will have the opportunity, if so desired, to discuss the matter with the relevant Senior Manager and be accompanied by a representative of his/her association.

7. The Timing of the Main Transfer Programme

- 7.1 The relevant Senior Manager of Service will liaise with 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.
- 7.2 Individual teachers nominated for transfer will be notified in writing by the Authority at the earliest possible date.
- 7.3 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 relevant Senior Manager will discuss the timing of the transfer with the Joint Secretary of the Joint Negotiating Committee for Teachers.
- 7.4 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, eg 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 or actuarially reduced retiral at any time;
 - (vi) the timing of placement of Teachers on the Induction Scheme
 - (vii) the timing of recruitment of students from colleges of education.

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.

Guidelines for the Timing of the Main Transfer Programme for
Unpromoted Secondary Teachers

January/February – Estimated pupil rolls for the coming session finalised with head teachers and staff entitlements revised.

Target date of 31 March for receipt of placing requests from parents.

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 that subject department and seek voluntary transfer or expressions of interest in winding down.

Where no volunteers a calculation will be undertaken to determine which member of staff would be subject to compulsorily transfer. Head Teacher will be notified and will advise member of staff accordingly.

Local teacher association secretaries will be notified of the schools where staff are being declared surplus.

March/April – Adjustment to estimates of staff entitlement where necessary following placing request decisions.

The effect of granting voluntary transfer requests considered.

The Authority will consider whether there is a necessity for a Premature Retiral Scheme.

Teachers who will require to be transferred on a voluntary or compulsory are invited to a joint meeting with relevant senior officers and trade union representatives. This meeting will normally take place around the Easter break of each year.

Choice of all appropriate 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 local teacher associations.

Identify posts for permanent peripatetic teachers

Advertise remaining posts not selected for surplus teachers or probationer teachers

June – Revised contracts sent to teachers being transferred to another school

Confirmation sent to any remaining surplus staff for whom no other post is available that they may require to undertake general cover within the permanent supply pool until a suitable vacancy is identified.

July onwards – Remaining transfers effected as necessary with as much notice as possible (in normal circumstances, one month) being given to the teachers concerned.