

# **Policy on Voluntary and Compulsory Transfer of Teaching Staff**

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## **1. SCOPE**

- 1.1. This procedure applies to all employees on Scottish Negotiating Committee for Teachers (SNCT) Conditions of Service.

## **2. DEFINITIONS**

- 2.1. The term “Teachers” will be used throughout this procedure manual to refer to all main grade Teachers on SNCT Conditions of Service.
- 2.2. Within the Primary and ASN sectors, a Teacher may be declared “surplus” for any of the following reasons:
  - Reduction in school roll
  - Reduction in service provision in school
  - Closure of the school
  - Merging of two or more schools
  - Management reorganisations
- 2.3. Within the Secondary sector, declaration of “surplus” Teachers should be a rare occurrence, brought mainly by a significant change such as school closures, change in catchment areas etc. Where the demand for a subject reduces, every effort should be made to redeploy Teachers creatively within their own school.
- 2.4. Where a potential compulsory transfer does arise in Secondary sector, this should be discussed with the Head of Service in the first instance then brought to the Secondary Head Teachers group to review potential solutions. Head of Service approval is required before declaring “surplus” Teachers in Secondary Schools.
- 2.5. It is recognised that there may be exceptional circumstances where a Teacher may transfer to another school in either sector for reasons other than those given above. Such cases will be considered on a case by case basis and management would seek to reach agreement with the teacher concerned regarding the transfer.

## **3. INTRODUCTION**

- 3.1. 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.
- 3.2. Where a requirement for a compulsory transfer has been identified, due regard will be taken of:
  - The needs of the school
  - The suitability of teacher for known vacancies
  - Teachers personal circumstances
  - Teachers length of service with the council (where appropriate)
- 3.3. When considering redeployments due regard will also be given to the distance of travel required and travel services available.

- 3.4. All Teachers should be treated equally, regardless of status. Where “last in, first out” is not to apply, the Head Teacher will be required to explain the rationale for that decision in writing to Head of Service.

#### **4. TYPES OF TRANSFER**

- 4.1. Every effort is made to minimise problems which arise when a Teacher is indicated as being surplus to their present school.
- 4.2. In the first instance, a voluntary alternative will be requested. Where this cannot be achieved within the relevant timescale, a Teacher will be identified for compulsory transfer.

##### **Voluntary Transfer - Identified Surplus Staff**

- 4.3. Where it has been established that there is a requirement to reduce staffing levels, the opportunity is given for Teachers to put themselves forward to be nominated for transfer.
- 4.4. If a suitable volunteer is identified and this request does not adversely affect the future educational requirements of the school, the request will be accepted.
- 4.5. In line with staffing procedure, the volunteer will be treated in the same way as all other compulsory transferred teaching staff. If there is more than one volunteer, the Teacher with the most continuous service with the authority will be selected for transfer.
- 4.6. Once the voluntary request for transfer has been accepted by the Head Teacher and the surplus Teacher is notified to Human Resources, the surplus Teacher can no-longer opt out of the transfer procedure regardless of the voluntary status.

##### **Compulsory Transfer**

- 4.7. Where no volunteer(s) for transfer can be found, a Teacher(s) will be identified as surplus as defined in section 2 and compulsorily transferred in accordance with the agreed procedures.

##### **Holding Transfer**

- 4.8. Where no permanent vacancy is available at the time of the transfer, the surplus Teacher, depending on circumstances, may be required to transfer on a temporary basis to another school which has a long-term temporary post until a permanent vacancy becomes available in which they will be prioritised for transfer. Transfer to temporary posts should be kept to a minimum and only used if all other options have been exhausted.

##### **Voluntary Transfer**

- 4.9. Where a teacher wishes to be considered for a voluntary transfer and the school/establishment is not in surplus situation, they will be afforded this opportunity on an annual basis as part of the staffing exercise.
- 4.10. Staff wishing to be considered for voluntary transfer should apply to the internal advert on [myjobscotland](http://myjobscotland.gov.uk) website which is placed at the same time as the adverts for the probationers and fixed term teachers. A Head Teachers report will be requested

therefore those applying voluntarily should inform their Head Teachers in advance of their application.

## **5. CONTINUOUS SERVICE**

- 5.1. For compulsory transfer, previous continuous service with the former Lothian Region Council and West Lothian Council will be considered as follows:

### **Reckonable Services**

- a) A break in service, for reasons other than disciplinary, will be recognised for a maximum period of seven years. Teaching service occurring before a break of seven years or less is credited in full. Previous service for breaks of more than seven years is NOT recognised.
  - b) For more than one break in service, breaks are aggregated up to a maximum of seven years. Provided the aggregate of breaks is less than seven years, all periods of intervening teaching service are credited in full.
  - c) Where breaks total more than seven years, credit is only given for the service accumulated between the breaks totalling to no more than seven years in the period immediately preceding the return to work.
- 5.2. The aggregate of teaching service arrived at under (b) or (c) above is used to determine if teachers are eligible for compulsory transfer under the 'last in, first out' principle. Credit is only given for the service accumulated between the breaks totalling to no more than seven years in the period immediately preceding the return to work.
- 5.3. In the Secondary Sector, the application of the 'last in, first out' principle depends on the overall staffing requirements of the particular department of the new school, not of the whole school.
- 5.4. Where two or more Teachers have equal service with the Council, consideration will be given to the criteria specified in 3.2 of the procedures and full consultation will take place with the Teachers concerned prior to the final decision.
- 5.5. Teachers should be given the opportunity to be accompanied by a trade union representative or other person of their choice at meetings to discuss compulsory transfers.

## **6. PROCEDURES**

- 6.1. Every year Human Resources will collate the list of schools in which reductions in teaching staff may be required. This process will be completed by end of February for Secondary sector and end of March for Primary sector.
- 6.2. The Head Teacher will notify Human Resources the extent of the reduction required, considering the anticipated pupil roll for the coming session or in Secondary sector, what has been approved by Head of Service. The Head Teacher will then convey this information to the teaching staff within their school within five working days of confirming to Human Resources that a surplus situation exists within the school.

- 6.3. The entire main grade teaching staff of the school identified with surplus post(s) will be consulted to ascertain if there is a volunteer for transfer. If there is no such volunteer, the Teacher in the school, with the least continuous service with the authority, will be designated as surplus and be subject to compulsory transfer unless there are, in the view of Head of Service, strong reasons for deciding otherwise.
- 6.4. Where continuous service, as referred to above, produces identical results for two or more Teachers, then the Teacher to be compulsorily transferred will be chosen by the drawing of lots in the presence of the Teachers concerned.
- 6.5. The Teacher designated as surplus will be informed of the proposed transfer verbally by their current Head Teacher in the first instance and in writing by Human Resources, intimating the decision made in relation to the transfer and reasons for it.
- 6.6. The Teacher will receive written notification if the need to transfer ceases.
- 6.7. Any Teacher being compulsory transferred will be invited to attend a group surplus staff meeting with Human Resources, which will normally take place directly after the Easter holidays. The appropriate teacher union secretaries will also be invited to attend.
- 6.8. At this meeting each surplus Teacher will be provided with a copy of these procedures and details of all appropriate full time and part time vacancies known at the time of the meeting.
- 6.9. Any surplus Teacher being compulsory transferred will be allowed the choice of all known appropriate vacancies. Where more than one vacancy exists, they will be asked to rank the vacancies in order of preference.
- 6.10. Whilst every effort will be made to accommodate part-time staffs existing hours in the newly identified posts, it has to be noted that this is not always possible and part-time staff may be required to alter their normal work patterns to suit the vacancy identified.
- 6.11. Where there are a number of surplus Teachers within any one category, i.e. Primary or Secondary subject, vacancies will be offered according to their length of continuous service as detailed above. For example, the rank order of the Teacher(s) with longest continuous service will be offered first choice of the available vacancies and so on until the vacancies are filled.
- 6.12. Surplus Teachers will be given 10 working days between the date of the group surplus staffing meeting and the submission of their options for transfer. Where a Teacher is unable to meet the prescribed time allotted for submitting their options for placement, they should contact Human Resources immediately to advise.
- 6.13. Only in exceptional circumstances will a Teacher be allowed additional time to select their transfer options. Placements cannot be guaranteed where options are received beyond 10 working days. Placements that have already been made will not be altered for staff whose option form is received after the 10 working days deadline.

- 6.14. Any Teacher submitting the option criteria form late will be placed within the remaining cohort of surplus Teachers depending on their continuous service at the time their option form was received Human Resources.
- 6.15. Head Teachers who have had vacancies identified within their schools as part of the staffing exercise will ensure adequate time is allocated to welcome and brief any surplus Teacher who may wish to visit their school as would be befitting for any future prospective member of the school staff.
- 6.16. Where no suitable vacancies exist, teaching staff may be subject to a holding transfer and deployed to schools as determined by the service and in accordance with the exigencies of the business. Teachers may be split across a number of sites or perform peripatetic services until such time as a suitable permanent vacancy can be identified.
- 6.17. The maximum number of sites teachers may be split across is two unless more is agreed between each party. If no suitable permanent vacancy is identified by the end of the first term i.e. October break, the Teacher will be invited to a surplus staffing meeting for the forthcoming session.
- 6.18. Teachers will be given at least four weeks written notice prior to date of transfer. This notice period may be adjusted subject to consultation with the Head Teachers concerned and with the agreement of the individual Teacher.
- 6.19. Arrangements should be made at establishment level to ensure continuity of teaching and learning should a teacher become subject to potential or actual transfer. Head Teachers should, where appropriate, allow the early release of surplus Teacher to new posts and where required, surplus Teachers should be allowed shadowing and CPD opportunities within their new school before the official uptake of their post.

## **7. GENERAL CONDITIONS**

- 7.1. A Teacher transferred compulsorily will not be transferred again within a period of two years. In addition, no Teacher will normally be subject to more than two compulsory transfers in six years however the exigencies of the business may dictate that there is a requirement for such a further transfer. In these circumstances the reasons for the additional move will be discussed with the affected teacher by the head teacher of the establishment in question.
- 7.2. 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 after the first £2 per week for a period of four years in line with the national conditions of service.
- 7.3. A Teacher who is compulsorily transferred will have the opportunity of returning to the school from which they were transferred should a suitable vacancy arise within a period of one year from the date of the compulsory transfer. It is the responsibility of the teacher to make this request to the Human Resources Team.
- 7.4. The date of the compulsory transfer for the purposes of these proceedings will be the date of the group compulsory transfer meeting, which usually takes place in April. If the

teacher decides to return to his/her former school, payment of excess Travelling Expenses will cease and the “two-year protection” from further compulsory transfer will also cease.

- 7.5. A Teacher who is undertaking a phased retirement or winding down and is in the final year of a declared retirement will not be subject to compulsory transfer and, in consideration of continuity of teaching and learning, will not have the opportunity to volunteer to transfer.
- 7.6. At any stage of transfer the Teacher will have the opportunity, if so desired, to discuss the matter with a Senior HR Advisor for Education or other senior officers within the Education Management team and be accompanied by a trade union representative or person or other council employee of his/her choice.

## **8. PREGNANT TEACHERS/MATERNITY LEAVE**

- 8.1. A Teacher, who by the end of February, 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.
- 8.2. Teachers who declare their pregnancy after 31 May will not be granted exemption from the compulsory transfer arrangements.
- 8.3. Teachers on maternity leave will be reminded that they have the right of return to the same school. A Teacher who is on maternity leave and who returns to duty before 31 May are not exempt from selection for transfer. 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.
- 8.4. 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.

## **9. SUBSEQUENT VACANCIES**

- 9.1. It is often the case that posts become available after the Easter break when the majority of Teachers who have attended the group compulsory transfer meeting will have been placed. Due to the logistics of the exercise, it is not possible to re-visit the entire list. Those Teachers who have already selected a permanent post from the list that was available in April of that school year will remain placed in the post that they have selected.
- 9.2. The subsequent vacancies that arise due to promotions and late notification of retiral will then be offered to any surplus Teachers remaining from the compulsory transfer list who have been placed in a temporary post.
- 9.3. Under normal circumstances, any permanent Teacher in a temporary post will be required to accept the offer of a suitable permanent post. Refusal of a permanent post will mean that the Teacher forfeits being placed at the top of the list at the following

year's staffing exercise, and the Teacher will be placed on the list according to their length of service.

- 9.4. The exception to the above process may be in shortage subjects, where it is known in advance that there are no surplus Teachers, these posts will proceed to open advert.
- 9.5. In all of the above processes the HR Team will identify reasonable timescales for selection of posts. Teachers will be expected to adhere to the identified timescale to ensure the efficient filling of vacancies.

## **10. TIMING OF MAIN TRANSFER PROGRAMME**

- 10.1. Human Resources 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.
- 10.2. Individual Teachers nominated for transfer will be notified in writing at the earliest possible date.
- 10.3. 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, Human Resources will discuss the timing of the transfer with the appropriate teacher union secretaries. This notice period may be adjusted subject to consultation with the Head Teachers concerned and with the agreement of the individual Teacher.

## **11. ROMAN CATHOLIC APPROVAL**

- 11.1. It is necessary for any teacher working in a Roman Catholic school to have the approval of the Roman Catholic Church. This is a requirement of the Education (Scotland) Act 1980. Information on how to acquire Church approval can be found on the website of the Scottish Catholic Education Service ([www.sces.uk.com](http://www.sces.uk.com)) under the heading Teaching. It is a straightforward process and any qualified and registered teacher can apply.
- 11.2. Where a surplus teacher opts for a denominational vacancy subject to approval and this approval is refused, the Teacher will be removed from the denominational vacancy and will be required to choose an appropriate non-denominational vacancy from those remaining at the time of the refusal. Should no appropriate vacancies be available the teacher will be placed into a temporary position until a permanent vacancy becomes available.