

## **Procedures for the Voluntary Compulsory/ Transfer of Surplus Unpromoted teachers in Primary & Secondary Schools**

### **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. Former Senior teachers, Assistant Principal Teachers and Principal Teachers who are conserved will be viewed as unpromoted staff for 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 re-deploying 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.

A separate procedure will be used in the case of school closures or mergers. LNCT agreement No 3 applies.

### **2. Type of Transfer**

Every effort is made to overcome problems caused by having teachers surplus to a school's establishment being 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 primary school, or secondary department, 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.

Voluntary transfer may be considered for teachers wishing personal development opportunities for one school year. Such requests will be dealt with after teachers identified as surplus or teachers who have volunteered to be treated as surplus are suitably re-deployed.

## 2.2 Compulsory Transfer

Where school, or subject department, 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 where these are additional to those currently incurred and the opportunity where all parties are agreeable to return to their original school should a suitable vacancy arise there within 2 years of the original transfer.

## 3. Procedures

- 3.1 The Executive Director of Educational Services or his representative will identify at as early a date as possible, schools in which reductions in teaching staff may be required and will inform the Trade Unions
- 3.2 The Executive Director of Educational Services or his representative 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 appropriate opportunity.
- 3.3 The entire unpromoted teaching staff of an affected Primary school or Secondary Department 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 that he/she wishes 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, the Executive Director of Educational Services or his representative will decide which teacher is to transfer. The teacher within the affected school or Department who has the least total continuous service with West Dunbartonshire Council or its antecedent authorities will normally be required to transfer unless there are, in the view of the Executive Director of Educational Services or his representative strong reasons for deciding otherwise. In the latter event such decisions shall be communicated to the Trade Unions indicating the reason(s) for the decision.
- 3.5 The Head Teacher will personally inform individual teachers who have been identified as surplus and the decision will be confirmed in writing thereafter..

- 3.6 Any teacher nominated for compulsory transfer will be formally notified by the Executive Director of Educational Services or his representative of the proposed transfer by a letter intimating the decision and extending an invitation to a meeting with the Head Teacher or Head of Service.
- 3.7 Any teacher being compulsorily transferred will be informed of all known appropriate vacancies with West Dunbartonshire Council. Where more than one teacher is interested in a vacancy selection will be by competitive interview of these staff.

#### **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 FTE pointage held by them at the time of transfer, subject to agreement with the Executive director or his representative. 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;
  - (ii) 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 West Dunbartonshire Council.
  - (iii) in some circumstances, where no other appropriate vacancies exist, a general cover post may be offered after full consultation with the teacher concerned and his/her trade union representative.

#### **5. Service Criteria for Selection for Transfer**

- 5.1 Factors which may be taken into account in considering the nomination of a teacher for compulsory transfer include the needs of the school, the length of continuous service with the authority, the personal circumstances of the teacher and his/her suitability for known vacancies.
- 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 period not exceeding 7 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 For the purpose of identifying surplus staff, each teacher within a job-share partnership will be credited with their own total continuous service. The period during which they were job-sharers will be treated as full-time service for each teacher. This may result in the job-share partnership being disbanded with each partner being treated as an individual and being offered one of the following three options:
  - a. A permanent part-time position
  - b. A permanent full-time position
  - c. An alternative job-share partner elsewhere

Job-sharers may reserve the right to request to transfer voluntarily together to an appropriate full-time post identified. In these circumstances their service for ranking purposes (ie on the list of teachers identified as surplus who gets first choice of all available schools) will normally be averaged unless this is excessively detrimental to one party in which case discussion will take place with the Joint Secretaries as to the best approach to be taken.
- 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 consideration will be given 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 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 by the drawing of lots in the presence of the teachers concerned.

## **6. General Conditions**

- 6.1 A teacher who is due to retire within two years will not normally be selected for transfer. If such a teacher is identified as surplus due to having least continuous service within the school, discussion to determine the most appropriate course of action will take place with the Executive Director of Educational Services or his representative, the individual teacher and, if requested, his/her trade union representative.
- 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 before Easter of each year.
- 6.3 A teacher who is pregnant will not normally be liable to be transferred.
- 6.4 A teacher transferred compulsorily will not normally be transferred again within a period of 2 years.
- 6.5 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 a period of 4 years following the date of transfer.
- 6.6 At any stage of transfer the teacher will have the opportunity, if so desired, to discuss the matter with the Executive Director of Educational Services or his representative and be accompanied by a representative of his/her association.

## **7. The Timing of the Main Transfer Programme**

- 7.1 The Executive Director of Educational Services or his representative will liaise with the 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 Executive Director of Educational Services or his representative will discuss the timing of the transfer with the Teachers' Convenor.

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, stepping down or actuarially reduce retiral at any time;
- (vi) the timing of placement of Teachers on the Induction Scheme

note            The allocation of probationer teachers cannot cause surplus in an establishment. However if a probationer teacher is allocated to a school this may obviate the need for a compulsory transfer into that school.

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 TEACHERS**

### **January/February**

- Estimated pupil rolls for the coming session finalised with head teachers and staff entitlements revised.
- 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 the Primary School or in Secondary schools the subject department and seek voluntary transfer or expressions of interest in winding down.
- Where no volunteers, Education Personnel staff calculate who would be member of staff compulsorily transferred and notify head teacher.
- Trade Unions notified by Education Personnel of schools affected.

### **March/April**

- Target date of 31 March for receipt of placing requests from parents
- Adjustment to estimates of staff entitlement where necessary following placing request decisions.
- The effect of granting voluntary transfer requests considered.
- The Authority will consider the necessity for a Premature Retiral Scheme.
- Teachers who will require to be transferred on a voluntary or compulsory are invited to a meeting with the Executive Director of Educational Services or other appropriate senior officers and trade union representatives.
- Choice of all known 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 Trade Unions
- Identify posts for permanent peripatetic teachers.

### **June**

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