

## WEST DUNBARTONSHIRE COUNCIL

### Report by Joint Secretaries to the LNCT Local Negotiating Committee for Teachers : 22 September 2009

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#### **SUBJECT : “SNCT 31 Code of Practice on the use of Temporary Contracts”**

#### **1. Purpose**

- 1.1** This report seeks review by the members of the LNCT with regard to the previous agreement made in April 2005 regarding the code of practice on the use of temporary contracts (former SNCT 31, Appendix 2.8 of SNCT Handbook 2007).

This review is necessary due to the reduction in staffing requirements, the reduction in peripatetic employment and the differing interpretation of the April 2005 LNCT agreement.

#### **2. Background**

- 2.1** In March 2004 SNCT / 31 was circulated to authorities making a commitment to temporary teachers.

- 2.2** 5.3 of this code of practice, in line with the Fixed Term Employees Regulations 2002 details that “any temporary contract extended beyond 4 years will be made permanent unless the authority can objectively justify not doing so”. These regulations were designed to prevent abuse arising from the use of successive fixed-term contracts.

- 2.3** Prior to the release of this circular West Dunbartonshire Council followed the procedures and agreement at 8.5 (page 20), in the scheme of Salaries and Conditions of Service for Teaching Staff in School Education (yellow Book - 1994). These conditions stated that

“A teacher who is employed on the temporary staff may at any time apply for a transfer to the permanent staff and the application shall not normally be refused if a teacher has given satisfactory full time continuous service for a period of a year. Transfer, where granted should normally be from 1<sup>st</sup> August.”

- 2.4** In April 2005 with the release of SNCT 31 agreement the LNCT discussed the transition from the yellow book to SNCT 31 and the following arrangement was agreed;

“Transfer to the council’s permanent staff will be in terms of the current agreement, that temporary staff will have the opportunity to transfer to permanent status at contracted hours at least equivalent to the contracted

hours worked under the temporary full-time equivalent contract after a maximum of two year's satisfactory service”.

### **3. Main Issues**

- 3.1 Teachers who have been on a number of unrelated supply jobs are accruing 2 years service and applying for permanency even when there is not a specific permanent contract to offer. In this circumstance the department would decline this request due to the fact there is no permanent contract to offer.
- 3.2 In the past individuals would be offered a peripatetic contract however in the current climate with reduced vacancies and surplus staff this is not tenable. A peripatetic team is a luxury the department cannot afford. In fact over the last 2 years the department have undergone an exercise to move those on the peripatetic pool into permanent positions in schools that have vacancies.
- 3.3 Only where a permanent post exists can a permanent contract be offered and in the absence of this availability the request will be justifiably refused.

### **4. Personnel Issues**

- 4.1 There are no personnel issues

### **5. Financial Implications**

- 5.1 See Risk Analysis.

### **6. Risk Analysis**

- 6.1 If all individuals who have worked 2 years or more gain permanency without there being a permanent contract to offer this will result in overstaffing, overspend contrary to Best Value requirements and displacement of other members of staff.

### **7. Conclusions**

- 7.1 There is a lack of clarity between the Authority's procedures and the wording contained within SNCT 31.

### **8. Recommendation**

- 8.1 That members of the LNCT are asked to acknowledge the difficulties we are experiencing with regard to this agreement and the need for justifiable refusal of contracts in the absence of a permanent post to offer. However it should also be acknowledged that applicants should be made permanent where there is such a post and should not be unreasonably refused.

- 8.2** Agreement to the following LNCT arrangement which reflects the Fixed Term Regulations of 2002 and still offers a more favourable LNCT arrangement than SNCT 31/ Appendix 2.8 of SNCT Handbook 2007.

“Any temporary contract extended beyond 2 years will be made permanent unless the authority can objectively justify not doing so”.

- 8.3** Objective justification would be in situations where no permanent post exists or that the post is directly linked to time defined funding etc. It is not justifiable to decline an application and continue using successive fixed-term contracts.

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### **Person to Contact**

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Appendices

No Appendices

Background Papers

LNCT Agreement April 2005

SNCT Handbook 2007

Wards Affected

All Wards