

# Scottish Negotiating Committee for Teachers

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Dear Colleague

## SNCT/31

### Code of Practice on the use of Temporary Contracts

1. The National Agreement, "A Teaching Profession for the 21<sup>st</sup> Century" made a commitment to temporary teachers:  
  
"2.7 Transfer of Temporary Teachers to the Permanent Staff.- It has been agreed to establish a national Code of Practice on the use of temporary contracts. Once the new Code of Practice is agreed local negotiating committees can replace existing Clause 8.5 of the Scheme with a local agreement based on the national Code of Practice."
2. Agreement has now been reached by the SNCT on a Code of Practice for Temporary Contracts. LNCTs shall seek to reach agreement, based on the National Code of Practice, which will replace the current arrangements under Paragraph 8.5.
3. The code will be monitored at local level through the LNCT and at national level by the SNCT.
4. Conditions of service for temporary teachers are set out in SNCT circulars, and in the Scheme of Salaries and Conditions of Service and, where relevant by Local Negotiating Committees for Teachers

Yours sincerely

Lynne Dickson (Employers' Side)  
Drew Morrice (Teachers' Panel)  
Stephanie Walsh (Scottish Executive)

Joint Secretaries

## **Code of Practice on the use of Temporary Contracts**

### **1. Introduction**

- 1.1 The aim of this Code is to establish good practice on the use of temporary contracts
- 1.2 The SNCT recognises the important contribution made by temporary teachers, many of whom go on to hold permanent contracts. The SNCT believes that it is essential that temporary teachers are treated in the same way as permanent staff and given access to appropriate induction, training and support.
- 1.3 The Code takes into account the Employment Rights Act 1996, as amended by the Employment Relations Act 1999 and the Employment Act 2002, as well as Part-Time Workers (Prevention of Less Favourable Treatment) and the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002.

### **2. Purpose**

- 2.1 The purpose of the Code is to enhance the principles of a professional service by helping Councils to manage their staffing requirements in a co-ordinated and structured way. This must be responsive to service needs whilst at the same time providing teachers with access to secure employment opportunities, wherever possible.
- 2.2 The Code aims to ensure that employees on temporary contracts are not treated less favourably than permanent employees.
- 2.3 It is recognised that there will be teachers who may be employed on temporary contracts for significant periods of time. In such cases the letter of appointment must make clear the expected length of appointment.
- 2.4 It is recognised that there will always be a requirement for short-term temporary cover, and indeed there will always be teachers wishing to work on that basis. In order to achieve an element of consistency as well as giving staff security of permanent employment, Councils are encouraged to consider the option of appointing permanent peripatetic teachers to work within groups or “clusters” of schools. However, it is recognised that the need for additional *ad hoc* short-term cover will remain.

### **3. Definitions**

The SNCT recognises two situations when a Council may need a teacher to work other than on a permanent basis. These are set out below and apply irrespective of the number of hours worked.

#### **3.1 Fixed-Term Temporary Requirement**

- 3.1.1 Where it is known from the outset the reasons for the temporary requirement and its likely duration, a temporary contract of

employment will be issued, as soon as possible, specifying entitlement to pay and conditions of service and detailing the expected duration and reason for the appointment.

3.1.2 The use of fixed term temporary appointment may be made in a number of circumstances including the following:

- maternity leave
- parental leave
- adoption leave
- career break
- long-term sickness absence
- secondment
- sabbaticals
- staffing from time limited funding

### 3.2 Short-Term Temporary Requirement

3.2.1 In certain limited circumstances, teachers may be offered work on a short-term temporary basis, generally with little or no notice, and usually on a day-to-day basis. In such instances there is no obligation on the Council to provide work or on the teacher to accept the offer of work. In the short-term situation, teachers may be asked to provide cover for absences including the following:

- in-service training/staff development/working groups
- special leave, for example, bereavement leave, jury duty
- paternity/maternity support leave
- short-term sickness absence
- trade union duties
- SQA duties.

3.2.2 Where it becomes clear that the need for the temporary replacement is likely to be ongoing or lengthy, then the individual should be issued with a fixed-term contract as described in paragraph 3.1 above.

3.2.3 Councils will need to ensure that adequate systems are in place to record the days/hours worked by temporary teachers for pay purposes.

## 4. Recruitment

4.1 Every teacher recruited to undertake work on a fixed term or short-term temporary basis will be appointed in accordance with that council's recruitment procedures.

4.2 Following this process such teachers will be placed on a register of approved teachers maintained for these purposes.

## 5. Transfer to Permanent Status

- 5.1 Movement to a permanent post will be open to temporary teachers through normal application. Temporary teachers should be provided with the same access to information on vacancies for permanent posts as is provided to existing permanent post holders.
- 5.2 Transfer to a Council's permanent staff will also be through arrangements agreed by the LNCT.
- 5.3 Under the Fixed Term Employees Regulations 2002 any temporary contract extended beyond 4 years will be made permanent unless the authority can objectively justify not doing so.
- 5.4 Fixed term temporary employees should not be selected for redundancy on the grounds of their employment status. Any selection for redundancy must be objectively justified.