

EAST AYRSHIRE COUNCIL

JOINT NEGOTIATING COMMITTEE FOR TEACHING STAFF – 7 OCTOBER 2010

JNCT CIRCULAR 22: TRANSFER OF SURPLUS PROMOTED TEACHING STAFF POLICY AND PROCEDURES

Joint Report by Executive Director of Educational and Social Services and the Executive Director of Finance and Corporate Support

1. PURPOSE

- 1.1 The purpose of the report is to seek approval from the JNCT for the attached policy on the Transfer of Surplus Promoted Teaching Staff. The policy and procedures will be used to transfer promoted school staff, including Principal Teachers, Depute Head Teachers and Head Teachers as required by the exigencies of the service.

2. BACKGROUND

- 2.1 The school population is declining across East Ayrshire resulting in falling rolls across a number of educational establishments. This has impacted on the entitlement to the number of promoted posts in affected establishments. The attached policy is designed to allow a flexible transfer of employees in such a category. Such staff under the policy will retain a post of similar status with protected terms and conditions, while at the same time the authority will be able to reduce any additional financial burden resulting from surplus promoted posts remaining in establishments where the entitlement to such posts no longer exists.
- 2.2 The JNCT Report of November 2009: 'Procedures to manage the Changes to Management Structures in Secondary Schools' formalised a principle of schools agreeing their revised management structures within a defined budget after going through a collegial procedure with staff and parents. The outcome of this process may result in posts being made surplus and this policy aims to manage this outcome within the principles described in 2.1 above and protecting the rights of promoted staff in accordance with the Scottish Negotiating Committee for Teachers (SNCT) Handbook of Conditions of Service.
- 2.3 The introduction of The Scottish Schools (Parental Involvement) Act 2006 and the Parental Involvement in Head Teacher and Deputy Head Teacher Appointments (Scotland) Regulations 2007 gives local authorities the powers to transfer surplus Head Teachers and Depute Head Teachers.
- 2.4 The Parental Involvement Act refers only to Head Teachers and Depute Head Teachers, but to ensure a consistent approach to the management of all surplus promoted members of staff within Education, this policy will apply to all promoted teaching posts in all sectors of the department.
- 2.5 The Transfer of Surplus Promoted Teaching Staff Policy and Procedures takes into account the requirement for parental involvement.
- 2.6 Any proposed transfer of a promoted member of staff to a denominational school will be subject to the principles described above and in addition, as per the

Scottish Schools (Parental Involvement) Act 2006; the East Ayrshire Roman Catholic Church representative will be involved in the process.

3. TRANSFER OF SURPLUS PROMOTED TEACHING STAFF

The key points of the Transfer of Surplus Promoted Teaching Staff Policy and Procedures are as follows:

- 3.1 Managing the transfer process will, in the case of schools, be the responsibility of the Head of Service: Schools while nurseries and authority wide teams and special schools will be the responsibility of the Head of Service: Community Support.
- 3.2 The appropriate Head of Service will have the final decision in the selection of the successful surplus promoted employee to any vacancy in their portfolio. Where the post results in transition from nursery to primary the Head of Service: Schools will take responsibility for the exercise. However, the views of the affected employees and appropriate Head of Establishment will be taken into consideration throughout the transfer process.
- 3.3 The Council will ensure that all employees who are being considered for transfer are treated in a fair and consistent manner. The process of declaring any member of staff will be open and transparent and fully explained to all affected staff and clear criteria will be set when deciding which posts are to be declared surplus.
- 3.4 The transfer process will allow surplus promoted members of staff to be best matched in terms of skills, qualifications and experience required for any vacant post.
- 3.5 Where there is no immediate suitable permanent post available, the surplus promoted member of staff will be allocated to a temporary placement, which may be in their existing establishment, by the relevant Head of Service or their nominee until a suitable permanent post is secured or until the situation is otherwise resolved.
- 3.6 The annual Teaching Staff Return exercise conducted at the beginning of each calendar year will normally identify any surplus Depute Head Teacher/Head Teacher and Principal Teacher posts within the Department of Educational and Social Services, although there may be occasions during the course of a session where for example a management re-structuring exercise, or unexpected falling roll at census date leads to the identification of surplus staff and the procedures in this policy would come into force immediately. It is noted that a predicted roll fall which results in a declaration of surplus may fluctuate over a period of months or during a session. This will be factored in any final decision on declaration of a surplus. A full list of all of the posts to be declared surplus and, in addition, a list of potential vacancies will be issued to the Joint Secretary (Teacher's side) at the time of compilation.
- 3.7 Where a surplus promoted employee is transferred to a post which has a higher salary, then they will be paid the salary for that post.

- 3.8 Where a surplus promoted employee is transferred to a post which has a lower salary, the salary conservation arrangements as set out in the Scottish Negotiating Committee for Teachers (SNCT) Handbook of Conditions of Service will apply at the time of this transfer where the salary differential is up to two points on the scale. Where the differential is between 3-4 points inclusive five years salary conservation will be granted. There will normally be no transfer arranged where the salary scale differential is 5 points or more.
- 3.9 Where, in the opinion of the relevant Head of Service and the Human Resources Manager (Education), a surplus promoted employee unreasonably refuses on two occasions to accept proposed placements, then in accordance with the Scottish Negotiating Committee for Teachers (SNCT) Handbook of Conditions of Service there shall be no entitlement to conservation of salary. Subsequent placement would be determined by the relevant Head of Service or nominee.
- 3.10 Where an employee is dissatisfied with any decision in relation to the application of the Policy and Procedures, they may in the first instance raise it formally with either Joint Secretary of the JNCT. Where this does not resolve an issue then the employee may enact a grievance under the Council's Grievance Procedures for Teachers in the usual way.
- 3.11 The Policy and Procedures will be reviewed on a three yearly basis or earlier on the request of either of the Joint Secretaries following any changes in the relevant legislation or operational requirements.
- 3.12 A copy of the Transfer of Surplus Promoted Teaching Staff Policy and Procedures is attached to the report.

4. COMMUNICATIONS

- 4.1 Employees will be advised of the Transfer of Surplus Promoted Teaching Staff Policy and Procedures via the issue of a relevant JNCT Circular.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no additional costs arising from the introduction of the Transfer of Surplus Promoted Teaching Staff Policy and Procedures.

6. POLICY/LEGAL IMPLICATIONS

- 6.1 The introduction of the Transfer of Surplus Promoted Teaching Staff Policy and Procedures will ensure that the Council meets its legislative requirements as an employer and continues to follow best practice guidelines. The proposals meet the pursuit of continuous improvement and Best Value and the guiding principles of the Community Plan.

7. RISK MANAGEMENT IMPLICATIONS

- 7.1 There are no risk management implications.

8. COMMUNITY PLANNING IMPLICATIONS

- 8.1 There are no community planning implications.

9. RECOMMENDATIONS

9.1 The Joint Negotiating Committee is asked to:

- (i) agree the introduction of a Transfer of Surplus Promoted Teaching Staff Policy and Procedures; and
- (ii) note the contents of the report.

Alexander McPhee
Executive Director of
Finance and Corporate Support

Graham Short
Executive Director of Educational
and Social Services

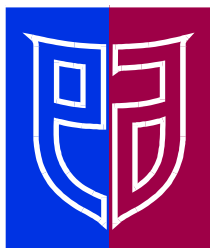
30 September 2010

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LIST OF BACKGROUND PAPERS

1. The Scottish Schools (Parental Involvement) Act 2006
2. Head Teacher and Deputy Head Teacher Appointments (Scotland) Regulations 2007

Any person wishing further information should contact Martin Rose, Head of Human Resources (Telephone 01563 576092) or Andrew Sutherland, Head of Service: Schools (Telephone 01563 576126).



EAST AYRSHIRE COUNCIL

**TRANSFER OF SURPLUS PROMOTED TEACHING STAFF
POLICY AND PROCEDURES**

Effective Date: October 2010
To Be Reviewed: 3 Yearly Basis

Last Change: N/A
JNCT Circular: N/A

1. POLICY STATEMENT

1.1 This Policy has been established to enable the Council to achieve and sustain a consistent approach to the transfer of promoted teaching staff, including Principal Teachers, Depute Head Teachers and Head Teachers when the exigencies of the service demand such a transfer. The Council recognises that these Policy and Procedures represents an important way of retaining experienced employees and will seek to transfer relevant employees to a suitable alternative post within the Education Sector whenever possible. In particular the provisions of this Policy and Procedures will allow the Council to:-

- Manage necessary fluctuations in staffing numbers
- Maintain effective workforce planning
- Maintain quality learning and teaching

2. INTRODUCTION

2.1 This policy outlines the principles and procedures to be followed in relation to the transfer of promoted teaching staff, including Principal Teachers, Depute Head Teachers and Head Teachers when the exigencies of the service demand such a transfer.

2.2 The Transfer of Surplus Promoted Teaching Staff Policy and Procedures are applicable to Principal Teachers, Depute Head Teachers and Head Teachers in respect of schools and Head of Establishments, Depute Heads of Establishments and Head Teachers in respect of nurseries and Authority wide teams. **It does not apply to Local Government Employees, Craft Operatives and Chief Officers who have their own procedures.**

2.3 The Council will ensure that all employees who are being considered for transfer are treated in a fair and consistent manner and that the criteria for transfer are open and transparent.

2.4 The transfer process will, in the case of primary and secondary schools, be the responsibility of the Head of Service: Schools while special schools, nurseries and Authority wide teams will be the responsibility of the Head of Service: Community Support. The Human Resources Manager (Education) will closely support the appropriate Head of Service in the transfer process.

3. BEING DECLARED SURPLUS AS A RESULT OF FALLING ROLLS/MANAGEMENT STRUCTURE REVIEW /OR CLOSURE OF A SCHOOL

3.1 The annual Teaching Staff Return exercise conducted at the beginning of each calendar year will normally identify any surplus Depute Head Teacher/Head Teacher and Principal Teacher posts within the Department of Educational and Social Services, although there may be occasions during the course of a session where, for example, a management re-structuring exercise, or unexpected falling roll at census date leads to the identification of surplus staff and the procedures in this policy would come into force immediately. It is noted that a predicted roll fall which results in a declaration of surplus staff may fluctuate over a period of

months or during a session. This will be factored in any final decision on declaration of a surplus. A full list of all of the posts to be declared surplus and, in addition, a list of potential vacancies will be issued to the Joint Secretary (Teacher's side) at the time of compilation by the Human Resources Department (Education)

- 3.2** The process to transfer surplus promoted staff will require the support and co-operation of Heads of Establishment in identifying and receiving surplus staff and it is expected that the needs of the service as a whole be prioritised in the exercise, even if individual establishments feel that their individual establishment has not directly benefited.
- 3.3** Where in the event of management re-structuring or the closure of an educational establishment, a Head of Establishment becomes surplus then regard will be given to the needs of any receiving educational establishment, the suitability of the Head of Establishment for known vacancies and the personal circumstances of the Head of Establishment. Ultimately the final decision on transfer will be determined by the exigencies of the service.
- 3.4** Where a Depute Head Teacher post/Principal Teacher post has been identified as being surplus to requirements as a result of a falling establishment roll or management re-structuring the Head of Establishment, or line manager if it is an Education Central Team, has the responsibility to declare that post surplus to the Head of Schools or in the case of the latter, the Head of Community Support.
- 3.5** Where there is more than one Depute Head Teacher/Principal Teacher affected in the educational establishment /service concerned, then the Head of Establishment or equivalent will firstly seek a voluntary transfer. Where this is not forthcoming then the decision on transfer will be based on least continuous service to the authority unless there are, in the view of the Head of Service, strong reasons for deciding otherwise. In the latter event such decisions, indicating the reasons shall be communicated to the local association secretaries prior to the transfer being actioned. Ultimately each transfer exercise will be determined on a case by case basis, in negotiation with the appropriate Trades Union, and it may be that other additional criteria such as the needs of the school, the personal circumstances of the employee or their suitability for known vacancies may be considered on a case by case basis.
- 3.6** In some instances, the Head of Establishment may not wish to declare the post surplus, but fund the post from elsewhere within their budget. In this case the employee should still be declared surplus for the purpose of maintaining a central database. The Head of Establishment should then seek the permission of the appropriate Head Service to use their budget in this manner and if granted, the employee may remain and the costs will be met in full by the establishment and the post will not become subject to this Policy. Ultimately the final decision on any transfer will be determined by the exigencies of the service.
- 3.7** The views of the affected employees and Head of Establishment will be taken into consideration throughout the transfer process. The appropriate Head of Service will however have the final decision in the selection of any promoted employee where there are a reduced number of posts emerging after a rationalisation exercise.

4. PROCEDURES TO BE FOLLOWED IN THE EVENT OF AN EDUCATIONAL ESTABLISHMENT RECEIVING A PROMOTED TRANSFER

- 4.1** Where a Parent Council exists, the appropriate Head of Service or their nominee will consult with the members when proposing that a surplus Head Teacher or Depute Head Teacher should fill a vacant promoted teaching post. Discussions will also take place with the Parent Council around the specific skills and competencies required for the post. However, the Department of Educational and Social Services will make the final decision on whether the transfer will take place and accordingly the Parent Council will have no further involvement in the appointment process.
- 4.2** The process of transferring surplus promoted employees will require the support and co-operation of Heads of Establishment to identify and receive surplus employees. The principle underpinning any transfer will be based on the needs of the service as a whole.
- 4.3** The Human Resources (Education) Team will maintain a record of surplus promoted employees to assist in identifying transfer opportunities. All surplus promoted members of staff have the right to information about available vacancies. The Joint Secretary (Teacher's Side) will also be issued with a copy of an up to date list of surplus employees by the Human Resources Department (Education)
- 4.4** The Head of Establishment or line manager if applicable to a central Education Authority based team, will have the designated responsibility, alongside the Human Resources Manager (Education), to provide ongoing support for a surplus promoted employee during the transfer process.
- 4.5** The surplus promoted employee may be accompanied by a trade union representative, friend or colleague at meetings concerning the transfer process, if they so wish. It is their responsibility to ensure that their representative is present.
- 4.6** Where an educational establishment or authority central service has a promoted post vacancy, the filling of that vacancy must be discussed with the relevant Head of Service or their nominee. The post will not be advertised or filled by any acting up arrangement if there is a suitable surplus promoted employee identified. Where the relevant Head of Service or their nominee considers that there is no suitable surplus promoted employee, then the post will be released for filling in the usual way. Reasons may be given by the appropriate Head of Service to a surplus promoted employee where they considered that such a post would have been a suitable match for them.

5. SUPPORT FOR EMPLOYEES DURING THE TRANSFER PROCESS

- 5.1** Any surplus promoted employee will be supported by the Human Resources (Education) Team to help secure appropriate alternative employment. Where there are no immediate suitable posts available, the surplus promoted employee may be allocated to a temporary placement by the Human Resources Manager (Education), which may be in their existing establishment, until a suitable substantive post is secured or until the situation is otherwise resolved. Such a placement may also be to any other teaching post or position within the authority and the employee concerned will be expected to carry out duties up to a level commensurate with their salary.
- 5.2** The surplus promoted employee may be accompanied by a trade union representative, friend or colleague at meetings about the transfer process, if they so wish.
- 5.3** When a suitable vacancy becomes available during the course of a temporary placement, a decision on whether to allow the surplus promoted employee to complete the placement before taking up their new substantive post will be made by the relevant Head of Service or their nominee, subject to the needs of the service.
- 5.4** Where an alternative post has not been secured by the employee concerned, the situation will be monitored on a three monthly basis by the relevant Human Resources Manager (Education) and other options to resolve the situation will be explored.
- 5.5** Where a substantive placement becomes available the employee concerned will be expected to carry out duties up to a level commensurate with their salary. The above process will be conducted by the appropriate Head of Service and the Human Resources Manager (Education). The surplus promoted employee will be invited to a meeting to ascertain if they are a suitable match for a post. In the case of several surplus promoted employees being identified for a vacancy then a restricted interview process will take place to determine which employee is the best match for the vacant post.
- 5.6** As part of the continuing process of promoting best HR practice, post interview feedback will be available on request to an unsuccessful employee by the relevant Head of Service or Human Resources Manager (Education). The purpose of the feedback will be to assist the employee to focus on all aspects of their interview to enable them to equip themselves better for any future opportunities. All requests for post interview feedback will be treated in confidence.
- 5.7** In normal circumstances, the date of any transfer will be notified to the employee concerned if possible at least one month in advance. There may be occasions when it is in the interest of the employee concerned or the authority for the transfer to take place more quickly.

- 5.8** The transferred employee will normally have the right to return to their original establishment for a period within two years after transfer, should an appropriate vacancy arise. It will be the responsibility of the transferred promoted member of staff to make such a request. However, before granting such a request, the curriculum needs of pupils and the demands of the service will require to be taken into account.
- 5.9** A surplus promoted member of staff will be entitled to apply for any advertised vacancy within the Council to which they have not been matched, in the usual way.

6. THE MATCHING PROCESS

- 6.1** The matching process will allow surplus promoted employees to be best matched in terms of skills, strengths and experience required for any future vacant post. The matching process will not be used to judge competence. The rationale for the matching will be shared with each appropriate member of staff.
- 6.2** The matching process will be conducted by the appropriate Head of Service or Human Resources Manager (Education). Where there is more than one employee eligible for a matched post the individual with the longest continuous service with the authority will normally be allocated to that post. Factors to be considered when deciding eligibility for a post will include:
- Size of current establishment
 - Service and sector experience;
 - Nature of current post;
 - Current job sizing; and
 - Personal preference.

Although the authority retains the right to transfer surplus promoted employees to any appropriate establishment in its portfolio, the views of the affected staff and appropriate Head of Establishment will be taken into account throughout the process.

- 6.3** The surplus employee will work closely with the Human Resources Manager (Education) to secure appropriate alternative employment. The Head of Service or Human Resources Manager (Education) will direct the surplus employee to a temporary placement, which may be in their existing establishment until a suitable permanent post becomes available and is secured or until the situation is otherwise resolved. Such a placement may also be to any other suitable teaching post or position within the authority and the individual will be expected to carry out duties up to a level commensurate with his/her salary.
- 6.4** Should a suitable vacancy occur during the course of any secondment that the surplus employee has undertaken then a decision on whether to allow the employee to complete the secondment before being allocated to their new substantive post will be taken by the appropriate Head of Service, subject to the needs of the service.

7. PAY AND CONDITIONS

- 7.1** Where a surplus promoted teacher is transferred to a post which has a higher salary, then they will be paid the salary for that post.
- 7.2** Where a surplus promoted employee is transferred to a post which has a lower salary, the salary conservation arrangements as set out in the Scottish Negotiating Committee for Teachers (SNCT) Handbook of Conditions of Service will apply at the time of this transfer where the salary differential is up to two points on the scale. Where the differential is between 3-4 points, inclusive, five years' salary conservation will be granted. There will normally be no transfer arranged where the salary scale differential is 5 points or more
- 7.3** Where, in the opinion of the relevant Head of Service and the Human Resources Manager (Education), a surplus promoted employee unreasonably refuses to accept proposed placements on two occasions, then in accordance with the Scottish Negotiating Committee for Teachers (SNCT) Handbook of Conditions of Service there shall be no entitlement to conservation of salary from immediate effect. A subsequent placement to an alternative post would be determined by the relevant Head of Service or nominee.
- 7.4** Employees who incur additional travel expenses as a result of being transferred to another work location will be entitled to claim excess travel expenses in accordance with Scottish Negotiating Committee for Teachers (SNCT) Handbook of Conditions of Service.

8. RIGHT OF APPEAL

- 8.1** Where an employee is dissatisfied with any decision in relation to the application of the Policy and Procedures, they may raise the matter through either of the Joint Secretaries of the JNCT. Where the matter is not resolved through this mechanism any employee may raise a grievance under the Council's Grievance Procedure for teachers in the usual way.

9. RECORD KEEPING

- 9.1** It is important that accurate record keeping is maintained throughout the transfer process. All correspondence and documentation must be kept confidential in accordance with the Data Protection Act 1998.
- 9.2** A record of all transfers will be retained confidentially within Human Resources. The content, nature and outcome of the transfer process will also be summarised and used for statistical purposes and to establish patterns and consistency. For further information contact Human Resources.

10. MONITORING/REVIEW

- 10.1** The Policy and Procedures will be reviewed on a three yearly basis or earlier on the request of either of the Joint Secretaries following any changes in the relevant legislation or operational requirements.