

South Ayrshire Council Joint Negotiating Committee For Teachers

Compulsory Transfer Procedures (Unpromoted Teaching Staff) (JNCT2.2b)



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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, full-time or part-time. Principal Teachers who are conserved will be viewed as unpromoted staff for the purposes of this exercise.

Where arrangements must be made for a compulsory transfer the needs of the school will be considered.

The Authority will make every effort to avoid compulsory redundancy whilst undertaking this exercise by redeploying 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.

2. Type of Transfer

Every effort is made to overcome problems caused by having teacher's surplus to a school's establishment 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 school 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 transferred compulsorily.

2.2 Compulsory Transfer

- a Where a school has more unpromoted teachers than they are 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.
- b Staff who are part of the permanent peripatetic pool will also be included as part of the compulsory transfer process



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.

3. Procedures

- 3.1 The relevant Senior Manager will identify at as early a date as possible, schools in which reductions in teaching staff may be required and will inform local secretaries of teacher organisations represented on the Joint Negotiating Committee for Teachers.
- 3.2 The relevant Senior Manager 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 opportunity.
- 3.3 The entire unpromoted teaching staff of an affected school, or subject department in secondary, 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 flexible working or phased retirement as this may remove the necessity to declare a surplus teacher. Any teacher who intimates they wish to apply for flexible working/phased retirement must put this request in writing and, in normal circumstances, will be held to this decision.
- 3.4 If there is no such volunteer, Section 5.1 below will be used to identify which teacher requires to transfer unless there are, in the view of the Council, strong reasons for deciding otherwise. In the latter event such decisions indicating the reasons shall be communicated to the Joint Secretaries of the JNCT prior to the transfer being affected.
- 3.5 The Head Teacher will personally inform individual teachers who have been identified as surplus and advise them they will be contacted by the Authority.
- 3.6 The teacher nominated for compulsory transfer will be formally notified by the staffing team of the proposed transfer and will receive a written communication intimating the decision to transfer.
- 3.7 Any teacher being compulsorily transferred will be offered the choice of all known appropriate vacancies within South Ayrshire Council. During the annual surplus exercise where more than one teacher is interested in any vacancy it will be offered to the teacher with the longest total continuous service with South Ayrshire Council or its antecedent authorities. If no appropriate vacancies are available, the teacher will remain/transfer to the permanent peripatetic pool.
- 3.8 Permanent vacancies in establishments which provide Stage 4 supports i.e Invergarven School, Southcraig School, Girvan Academy, Queen Margaret Academy, Dalmilling Primary, Doonfoot Primary and Girvan Primary will be ringfenced to surplus/peripatetic staff. Applicants will require to be interviewed and appointed to these posts.



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 pointage held by them at the time of transfer.
 - (ii) 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
 - (iii) 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 vacancies within South Ayrshire Council. If no appropriate vacancies are available, they will remain/transfer to the permanent peripatetic pool.
 - (iv) In some circumstances, where no other appropriate vacancies exist, a split site or general cover post may be offered after full consultation with the teacher concerned and their trade union representative.
 - (v) As part of the annual staffing exercise unpromoted vacancies identified between January and the beginning of the surplus exercise process will be held for staff identified as surplus in their current school and staff in the permanent peripatetic pool.
 - (vi) Any vacancy which becomes available following the completion of the surplus exercise and the end of December will be offered to the teacher with the longest Continuous Service Date (CSD). If the pointage of the vacancy does not match the entitlement of the teacher with the longest CSD and they do not wish to increase/decrease their entitlement to match the vacancy pointage, the post will be offered to the teacher with the next longest CSD. If the vacancy pointage and the entitlement match the teacher will be allocated to the available vacancy. Where no teacher in the permanent peripatetic pool has an entitlement pointage which matches the vacancy pointage and no teacher wishes to increase/decrease their entitlement pointage, the post will be filled on a temporary basis until the next surplus exercise takes place.

5. Service Criteria for Selection for Transfer

- 5.1 Where no volunteer emerges or where the identification of a suitable volunteer is not appropriate then agreed criteria will be applied in identifying the appropriate transferee eg continuous service with South Ayrshire Council or its antecedent authorities, appropriate skills and relevant post-specific experience; personal circumstances of teacher in relation to equalities or other relevant legislation



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 a period not exceeding 6 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 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.

5.6 Where calculation of continuous service as referred to above produces identical results for two or more teachers then regard would be had 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 date on their contract of employment 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 through a fair selection process agreed in advance by the Joint Secretaries of the JNCT.



6. General Conditions

- 6.1 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 around Easter of each year.
- 6.2 A teacher transferred compulsorily will not normally be transferred again within a period of 2 years.
- 6.3 During the surplus exercise all staff must rank all posts that match their entitlement pointage and may select any other post that they are interested in. Posts will not be split to accommodate the current pointages of part-time staff.
- 6.4 A teacher transferred compulsorily or one who volunteers in a school where a transfer must be arranged will be entitled to excess travelling at the rates and for the duration outlined in the Council's Travel and Subsistence Policy.
- 6.5 A teacher who has been part of the permanent peripatetic pool as a result of accruing rights to permanency in South Ayrshire Council and subsequently secures a permanent post as part of the surplus exercise will not be entitled to excess travelling expenses.
- 6.6 At any stage of transfer the teacher will have the opportunity, if so desired, to discuss the matter with the relevant Senior Manager and be accompanied by a representative of his/her association.

7. The Timing of the Main Transfer Programme

- 7.1 The relevant Senior Manager 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 as soon as possible.
- 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 relevant Senior Manager will discuss the timing of the transfer with the Joint Secretary of the Joint Negotiating Committee for Teachers.
- 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 phased retirement or actuarially reduced retirement at any time;
- (vi) the timing of placement of Teachers on the Induction Scheme
- (vii) the timing of recruitment of students from colleges of education.

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 able 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.

Target date of 31 March for receipt of placing requests from parents.

Timetabling undertaken to reflect pupil choices and staff availability.

March/April – Head Teachers notify of subjects where surplus staff anticipated.

Where surpluses expected, Head Teacher to discuss with staff within that and seek voluntary transfer or expressions of interest in flexible working or phased retirement.

Where no volunteers a calculation will be undertaken to determine which member of staff would be subject to compulsory transfer. Head Teacher will be notified and will advise member of staff accordingly.

Local teacher association secretaries will be notified of the schools where staff are being declared surplus.

The Authority will consider whether there is a necessity for a Premature Retiral Scheme.

Teachers who will require to be transferred on a voluntary or compulsory basis will be contacted by the Education Staffing Team around the Easter break of each year.

Choice of all appropriate vacancies to be offered to surplus teachers with consideration being given on the basis of longest total continuous service with South Ayrshire Council or its antecedent authorities.

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 local teacher associations.

Identify posts for permanent peripatetic teachers

Advertise remaining posts not selected for surplus teachers or probationer teachers

June (onwards) – Revised contracts sent to teachers being transferred to another school

