



Education, Culture & Sport Service

Highland Local Negotiating Committee for Teachers

LNCT Agreement no. 34

Procedures for the Transfer of Surplus Promoted Teaching Staff (Primary)

THE HIGHLAND COUNCIL
CARE AND LEARNING SERVICE

Procedures for the Transfer of Surplus Promoted Teaching Staff (Primary)

Section A – Transfer Procedures

1. Introduction

- 1.1 In certain situations, the Care and Learning Service may need to consider transfer of existing promoted staff within their employment. This Agreement outlines the Care and Learning Service's procedures for the transfer of surplus promoted teaching staff in the primary sector, taking account of the requirement for parental involvement.
- 1.2 The introduction of the *Scottish Schools (Parental Involvement) Act 2006* and the *Parental Involvement in Head Teacher and Depute Head Teacher Appointments (Scotland) Regulations 2007* gives local authorities the powers to transfer surplus Head Teachers and Depute Head Teachers in circumstances such as school closures or mergers.
- 1.3 While the Act refers only to Head Teachers and Depute Head Teachers, in order to ensure a consistent approach to the management of surplus promoted teachers, these procedures will apply to all promoted teaching posts (Head Teachers, Depute Head Teachers and Principal Teachers) in the primary sector.

2. Definition of surplus

- 2.1 A promoted teaching post may be declared surplus for any of the following reasons:
 - Closure or mothballing of the school
 - Merger of two or more schools
 - Where a falling school roll leads to a reduction in the number of promoted posts
 - Where the ECS Service has altered the staffing formula, leading to a lower promoted staffing entitlement for the school

3. Identification of post holder to be transferred

- 3.1 Where there is more than one promoted post holder at the level identified as surplus, all promoted post holders at that level within the school or schools affected will be consulted to ascertain whether there is a volunteer for transfer.
- 3.2 If no volunteer is forthcoming, the promoted post holder at that level with the least total continuous service at that level with the Highland Council and previous constituent Authorities will normally be subject to transfer unless there are over-riding reasons for deciding otherwise.
- 3.3 Where two or more promoted post holders at that level have the same amount of least total continuous service (as described in 3.2 above), the post holder with the least continuous service at that level within the school or schools affected will normally be subject to transfer unless there are over-riding reasons for deciding otherwise.

4. Consultation with Parent Council

- 4.1 As an employer, the Highland Council is committed to safeguarding the continuous employment status of its staff and there will, therefore, be occasions when it is not appropriate to advertise a vacant post of HT/DHT. In circumstances where it is necessary to redeploy a member of staff,

the Council has a responsibility to ensure a suitable post is available to all appropriate contracted staff in a redeployment situation.

- 4.2 Whilst in terms of good practice, the Council will always consult with the relevant parent council, in a redeployment situation, the Council will always have the ultimate decision making in respect of a redeployment. This practice is fully compliant with the terms of legislation relating to Parental involvement in appointments to HT/DHT posts.

5. Transfer procedures

- 5.1 The LNCT Joint Secretary (Teachers' Side) will be advised when the Care and Learning Service first becomes aware of the need for the transfer of promoted staff.
- 5.2 While Head Teachers will have a preference for having an open and competitive process in appointing staff, the needs of the Care and Learning Service and its overall responsibility for workforce planning must take priority.
- 5.3 In certain circumstances, there may be occasions when other measures such as early retirement may have to be considered as an alternative to transfer.
- 5.4 Where a promoted post vacancy is identified, the post will not be advertised if there is a suitable surplus promoted teacher. Where it has been established by the Care and Learning Service that there are no available suitable surplus promoted teachers, the post will be released for filling as appropriate.
- 5.5 The Care and Learning Service will maintain a record of all surplus promoted teachers to assist in identifying transfer opportunities. All surplus promoted teachers will be informed of available vacancies into which they may be transferred.
- 5.6 The Care and Learning Service reserves the right to transfer surplus promoted teachers according to the needs of the Service. However, any surplus promoted teacher will be consulted with and their views will be taken into consideration throughout the process.
- 5.7 The appointment process for surplus Head Teachers will be conducted by the Director of Care and Learning (or representative) and the Area Education Manager, Senior Education Officer or Area Education Officer. The appointment process for Depute Head Teacher and Principal Teacher posts will be conducted by the Area Education Manager, Senior Education Officer or Area Education Officer, the receiving Head Teacher and a Quality Improvement Officer. The appointment process for Principal Teachers will be conducted by the Head Teacher of the receiving school.
- 5.8 Where there is more than one surplus promoted teacher eligible for transfer to a suitable vacancy, the post will, in the first instance, be ring-fenced to those surplus promoted teachers.
- 5.9 Where there is no suitable permanent post immediately available, the surplus promoted teacher may be transferred temporarily until a permanent post becomes available. Such a placement may be to any other teaching post within the Authority. The surplus promoted teacher may be expected to carry out duties up to a level commensurate with his / her current salary.
- 5.10 Where a suitable permanent vacancy occurs during the course of a temporary placement, the surplus promoted teacher will be offered transfer to the vacancy unless there are other eligible surplus promoted teachers, in which case an appointment process will be required.
- 5.11 The Director of Care and Learning has the right to make the final decision in the placing of surplus promoted teachers.
- 5.12 In normal circumstances the promoted teacher will be notified in writing of the date of transfer at least one month in advance. However, by mutual agreement the transfer may take place sooner.

- 5.13 Transferred promoted teachers have the right to request a return to their original schools during a period of two years after transfer, should an appropriate vacancy arise. It will be incumbent on the transferred promoted teacher to make such a request. However, the exigencies of the Service will take priority. In the event of such a return, paragraph 5.14 below will apply from the date of return to the original school.
- 5.14 Any promoted teacher transferred under this procedure will not normally be transferred again within a period of three years. However, there may be circumstances where this paragraph cannot be applied to a particular situation.
- 5.15 If a surplus promoted teacher chooses to apply for posts which are not under consideration for transfer, the standard recruitment and selection procedures will apply.

6. Salary conservation

- 6.1 A surplus promoted teacher who is transferred to a post which has a higher salary will be paid the salary for the post.
- 6.2 Where a surplus promoted teacher is transferred to a post which has a lower salary, the salary conservation rights as set out in the Scottish Negotiating Committee for Teachers Handbook of Conditions of Service will apply.

Section B - General

7. Travelling expenses

- 7.1 Where a promoted teacher transfers within the terms of this Agreement, excess travel or relocation expenses, where either of these is required, will be paid in accordance with the Scottish Negotiating Committee for Teachers Handbook of Conditions of Service.

8. Right of appeal

- 8.1 Any promoted teacher who is dissatisfied with any decision in relation to the application of these procedures will have recourse to the Local Negotiating Committee for Teachers Agreement, LNCT 4 (Discipline & Grievance Procedures).

Signed on behalf of the Council

Signed on behalf of the Teachers' Side

Name Hugh Fraser
 Designation Joint Secretary LNCT
 Date

Name Andrew Stewart
 Designation Joint Secretary LNCT
 Date