



COMHAIRLE NAN EILEAN SIAR

Department of Education

Local Negotiating Committee Agreement

Title:	CODE OF PRACTICE ON THE USE OF TEMPORARY CONTRACTS
Date:	1 JUNE 2005



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1. Introduction

- 1.1 The aim of this Code is to ensure good practice on the use of temporary contracts
- 1.2 Comhairle nan Eilean Siar recognises the important contribution made by temporary teachers, many of whom go on to hold permanent contracts. The Comhairle 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 the Comhairle 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 Comhairle 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 will 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.
 - 2.4.1 The Comhairle agrees that to provide greater continuity in employment opportunities and to encourage the uptake of posts, some permanent part-time teaching posts could be made up to full-time by the addition of permanent supply hours: e.g. 0.6 FTE English + 0.4 FTE supply, subject to an audit of need. The additional permanent supply hours would be at the disposal of the authority. The availability of a small permanent supply pool will also significantly aid continuity in provision for pupils.

3. **Definitions**

The Comhairle recognises two situations where a teacher may be required 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. The vacancy will be advertised in the normal way as a fixed term temporary post, unless exceptional circumstances apply.

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

3.1.3 At the end of the fixed term contract, normal employment regulations will apply.

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 Comhairle 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 The Comhairle will ensure that adequate systems are in place to record the days/hours worked by temporary teachers for pay purposes. Supply Teachers are paid in accordance with SNCT Circular 26. Additional guidance on the circular, as agreed by LNC Teaching staff is available in Education Department Circular 2003/17 – Payment Structure for Temporary Teaching Staff.
- 3.2.4 Short-term supply teachers are allocated work in line with the Education department's guidelines for allocating supply staff to schools.

3.3 Permanent variable hours requirement

- 3.3.1 In addition to the two situations set out above the Comhairle also contract a number of teachers to work on a variable hours basis to cover Management Support, Formula Top-up and Probationer Support needs. Such teachers previously worked on a long-term supply basis and contractual arrangements were introduced to provide permanency.
- 3.3.2 These Teachers work within groups of schools and are employed on a permanent basis. Hours are allocated on an annual basis with a guarantee of 0.2 FTE. Due to the needs of the service and the fluctuation in school rolls it may be necessary to vary the number and distribution of hours of work. Consequently the hours allocated may be subject to increase, decrease or rescheduling in accordance with the varying requirements of the service.
- 3.3.3 The authority could give consideration to ensuring that the minimum guaranteed hours will not be less than their average hours per week for the previous session.
- 3.3.4 Where rescheduling of days/locations arises through changes in the requirements of the service, these teachers will normally be given a minimum notice of 1 month regarding the change. This requirement is in the best interests of the pupils, parents and teaching staff.

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 the Comhairle's recruitment procedures. All candidates are required to complete an application form and are short-listed against a person specification. References are checked and candidates must attend an interview. Successful candidates will be asked to apply for an Enhanced Disclosure which must be processed before any hours are allocated.
- 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 is 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 The qualifying period for a temporary teacher to make application for transfer to the permanent staff shall be 16 months in continuous employment. The Education Department will give consideration to the application, taking account of the following:
- An analysis of the need for teaching staff in the sector/subject area.
 - A demonstration by the teacher, through application form, of having met the essential criteria in the person specification for a teacher, and of his/her suitability in terms of the job description for a teacher.
- 5.2.1 If a suitable vacancy can be identified within the Western Isles, either part-time or full-time, appropriate to the teaching qualification of the applicant, the teacher will be interviewed in line with the Comhairle recruitment procedure, and will be offered the post on a permanent basis if the teacher demonstrates suitability for the post in terms of the person specification and job description for a teacher.
- 5.2.2 If there is no suitable vacancy, the teacher will be offered a permanent variable hours contract, with a guaranteed minimum of 0.2 FTE, on permanent supply, until such time as a vacancy appropriate to the teaching qualification of the applicant can be identified within the Western Isles, when the conditions in 5.2.1 above will apply.
- 5.2.3 If a teacher refuses to consider two posts offered, when these are within their circumstances to accept, the application for transfer to the permanent staff will fall.
- 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.