

Perth & Kinross

Local Agreements : Temporary, Fixed-Term and Part-time Contracts [March 2003]

PERTH & KINROSS COUNCIL

Joint Negotiating Committee for Teaching Staff - 31 March 2003

Joint Report by Director of Education & Children's Services and Director of Human Resources

ABSTRACT

This report is to request that the proposed procedure is adopted to ensure that the Council determines the best means of filling a teaching vacancy that reduces the use of temporary or fixed term contracts whilst retaining flexibility. It also requests that temporary full-time and part-time contracts be reviewed with a view to being offered permanent contracts.

RECOMMENDATIONS

It is recommended that the Joint Negotiating Committee agrees to the introduction of the following:

- i) Restrict the use of temporary and fixed term contracts for the specific situations outlined in this report.
- ii) Front load the full recruitment and selection process for employees appointed temporarily in situations that could result in a permanent post at a later date.
- iii) Headteachers should monitor and review the performance of any new recruits as per normal good practice. Documentary evidence will be required in the event that a postholder is not being made permanent at the end of the temporary period outlined in number (ii).
- iv) Introduce the same criteria for temporary part-time employees as those proposed for full-time employees with the same one year continuous service qualifying criteria.
- v) Review the reason for existing temporary full-time and part-time contracts with a view to offering permanent contracts.

INTRODUCTION

2.1 Education and Children's Services within Perth & Kinross Council are currently working towards the formulation of a Workforce Planning Strategy. An integral part of such a strategy should be to minimise the use of non-permanent contracts whilst retaining flexibility of labour.

2.2 The key elements of a workforce planning strategy must be aimed at the retention and development of existing staff combined with improving the attractiveness of the Service to external recruits. In order to achieve this requires Perth & Kinross Council to recruit the best possible candidate first time and in order to succeed we require to identify the long-term nature of any vacant post to provide an element of job security and stability thereby attracting the right individuals. This concept will assist Perth & Kinross Council in meeting the national and local agenda for teaching in the 21st Century.

3 BACKGROUND

3.1 The current position within Perth & Kinross Council is that we employ individuals on a variety of contracts, including permanent full-time contracts, such as:

(a) ***Casual Supply*** (part-time or full-time).

These contracts are necessary in order to maintain a pool of qualified supply teachers to provide absence cover in schools.

(b) ***Fixed Term Contracts*** (part-time or full-time).

This type of contract usually contains a fixed date when the contract will terminate although in many cases the contract is renewed either on a term by term basis or annually.

(c) ***Temporary Contracts*** (part-time or full-time).

This type of contract is less common than Fixed Term Contracts although they are still used to employ staff for an indefinite period or until a specific event (e.g. the return of the permanent post holder or until the filling of a permanent post) occurs.

(d) ***Permanent Part-Time Contracts***

These permit those who wish to work part-time to do so but ensure a level of job security equivalent to that of a permanent, full-time member of staff. An Agreement already exists (April 1990) that transferred to Perth & Kinross Council from Tayside Regional Council that allows staff to apply for permanent part-time posts. The new Winding-Down Scheme will extend the use of this provision.

(e) ***Job-Sharing***.

This scheme is available on request to individuals and is when normally two employees share the duties and responsibilities of one full-time post on a pro-rata basis. The terms and conditions are the same as a full-time member of staff.

(f) ***Probationer's One Year Training Contract***

This scheme was introduced as part of A Teaching Profession for the 21st Century in August 2002 and enables individuals who trained in Scotland to be placed in a probationary position on a one year training contract to gain experience and thereby obtain registration with the GTCs. This type of training contract will continue to apply.

3.2 However, on occasion these contracts have not been used in the correct context resulting in employees being employed on a succession of temporary or fixed term contracts when the appointment should be permanent. This can also result in some employees being appointed to a post in a school more by default than by positive selection.

3.3 The Teacher's Scheme of Salaries and Conditions of Service (Yellow Book), paragraph 8.5, states that:

"A teacher who is employed on the temporary staff may at any time apply for a transfer to the permanent staff and the application shall normally not be refused if a teacher has given satisfactory full-time continuous service for a period of one year."

The SNCT have stated that local arrangements are to be determined in the use of paragraph 8.5 of the Yellow Book.

3.4 To date, Perth & Kinross Council have been in on-going dialogue with the unions regarding this paragraph to ensure that equality of opportunity is achieved across the Service. It is anticipated that the procedure being proposed in this report will enable a positive way forward for all affected employees currently in this position.

3.5 In addition to the national agreement for Teachers the Council must ensure that current legislation is adhered to. Any new arrangement introduced must therefore ensure a fair and equitable approach to recruiting and retaining new employees whilst complying with both UK and European legislation. The Council is therefore required to ensure that the following legislation is adhered to:

- ***Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000.*** This ensures that part-time workers are treated no less favourably than full-time employees in comparable posts.
- ***Fixed Term (Prevention of Less Favourable Treatment) Regulations 2002.*** This legislation was implemented in the UK in October 2002. Its purpose is to ensure that employees on fixed term and non-permanent contracts are not treated any less favourably than permanent employees in comparable posts and also provides the right to be made permanent after 4 years, except in certain circumstances outlined in the legislation.
- ***Race Relations (Amendment) Act 2000.*** This has been introduced on a phased basis over a period until 2006 and is basically to ensure that equality of opportunity exists in all policies and procedures affecting employees and service users. Although there exists legislation in relation to equal opportunities, this new Act requires the Council to ensure that all policies and procedures clearly demonstrate equality.

3.6 The existing arrangements in relation to Paragraph 8.5 for Teaching Staff does not apply to part-time employees and any new arrangements must ensure a fair and consistent approach to all types of employment contracts.

3.7 If agreement is reached on the proposed scheme this will supersede the current Paragraph 8.5 of the Scheme of Conditions of Service and extend the provision for all full and part-time temporary employees.

4 PROPOSALS

4.1 It is proposed that the use of temporary or fixed term contracts should, as far as possible, be restricted to specific situations-

- (i) to provide cover for a teacher on maternity leave
- (ii) long-term absence to attend in-service training
- (iii) in the case of long-term illness
- (iv) secondment to another post for a fixed period
- (v) to cover for a seconded teacher
- (vi) to undertake a clearly defined job of fixed duration
- (vii) where there is clear and explicit recognition that the roll of a school will fall substantially in the immediate future
- (viii) externally funded posts for a specific project of limited duration

4.2 Posts requiring to be filled for the reasons outlined above will be in accordance with existing recruitment and selection processes. Any extensions to these temporary appointments should be reviewed to ensure that the reason for the extension is as a consequence of a continuation of the original requirements for the appointment and may be continued on a temporary or fixed term basis only for that reason.

4.3 In all other cases vacancies, other than (i-viii) above, will be filled on a permanent basis in accordance with existing recruitment and selection procedures, unless, exceptionally, the Lead Officer (Staffing Services) decides that there are good reasons to make a temporary appointment. The recruitment and selection procedure to be followed in this situation should be identical to the permanent recruitment and selection procedure. However, all such cases that are determined to be temporary by the Lead Officer (Staffing Services) shall be reported to the JNCT and will be reviewed no later than one calendar year after appointment. In these cases where the service provided by a teacher on a temporary contract has been satisfactory and the post is required the following school year the individual's contractual status should automatically be made permanent normally from the start of the school session.

4.4 Headteachers should monitor and review the performance of any new recruits as per normal good practice. Documentary evidence will be required in the event that a postholder is not being made permanent at the end of the temporary period and the post is required the following school year.

4.5 In addition to the above it is proposed that Perth & Kinross Council reviews and rationalises the current situation regarding Permanent Part-Time Contracts.

4.6 The local agreement established in Tayside Regional Council in 1990 and transferred to Perth & Kinross Council in 1996 stated:

(i) that some statutory employment rights of fixed-term contract teachers in long-term continuous employment (whether part-time or full-time) were similar to those of permanent staff.

(ii) that there are part-time posts for which there is a long-term need which can be foreseen with a high degree of certainty and for which permanent part-time contracts would be appropriate.

4.7 This Agreement entitled teachers on fixed-term contracts, who had been employed continuously for a minimum of two years, for a minimum of two days or equivalent per week and whose current post identified a long term need, the right to apply to be transferred to a permanent part-time contract.

4.8 It is therefore proposed that individuals who meet the criteria outlined above, but with one year's qualifying service as opposed to two years thereby ensuring compliance with the Part-Time Workers Regulations, be invited on an annual basis to apply to have these posts made permanent part-time on the same basis as the full-time employees. Additionally, the flexibility adjustment of plus or minus 0.1 FTE from one session to the next contained in this agreement will cease to exist, unless by mutual agreement. These will ensure compliance with current legislation.

4.9 It is proposed that the Council should also, in relation to existing employees who meet these criteria, identify and review the reason for their temporary status with a view to offering them a transfer to a permanent part-time contract. The Education and Children's Services Committee approved a similar paper in February 2001 that provided this option for a range of Teachers (Primary Head Teacher Support, Primary Visiting Specialists, Primary Learning Support and teachers of SEN). The option should now be extended by agreement to a wider range of teaching staff.

5 FINANCIAL IMPLICATIONS

There will be no financial implications arising from these proposals, in fact it can be argued that if a rigorous recruitment and selection process is followed initially this will eradicate the time and energy involved in re-advertising, reduce interference from losing temporary employees and the subsequent retraining of new recruits. The conversion of temporary to permanent will also have no financial implications as the individuals have access to all the terms and conditions of employment of permanent staff.

6 STRATEGIC PRIORITIES

This Report contributes towards our strategic aim -

" to provide effective and efficient services which deliver quality and value for money.

7 CONSULTATION

The professional associations, Headteachers' Strategy Groups and Director of Human Resources have been fully consulted in the preparation of this report.

8 CONCLUSIONS

8.1 These proposals if accepted would reduce the current climate of over-dependence on temporary staff. They would improve morale and motivation among teaching staff at a time when continuing pressures and increased expectations can weigh very heavily on dedicated staff. The proposals would provide stability and consistency of teaching whilst retaining an element of flexibility.

8.2 These proposals would also ensure that a full and thorough selection process is undertaken in all instances and by advertising more permanent positions at the outset will enable Perth & Kinross Council to compete more effectively in seeking to attract and to retain the best qualified and or most experienced staff.

G T Waddell George Farquhar
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BACKGROUND PAPERS

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.