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EIS Guidance to Members on Contractual Issues in School Education

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Contractual Issues for Members

This pocket guide sets out guidance on pay, conditions of service and other contractual matters which affect teachers in Scotland. This is primarily designed for those entering the teaching profession but will be of relevance to all EIS members.

The guidance is geared to those who are employed by Scottish local authorities. There is a section for those who are employed in the independent sector.

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This is a guide. Full details can be found on the EIS website www.eis.org.uk/, on the SNCT website www.snct.org.uk/ or by contacting EIS.

Teachers' Pay

The pay of Teachers employed by Scottish Local Authorities is determined by collective bargaining through the Scottish Negotiating Committee for Teachers (SNCT).

The Scottish Negotiating Committee for Teachers is a tripartite negotiating body which comprises representatives of the Scottish Government, Scottish Local Authorities and recognised teacher trade unions.

The Teachers' Side of the SNCT is drawn from a Teachers' Panel which is based on the respective size of trade unions in Scotland. The EIS has 13 seats on the Panel, SSTA has 3 seats, NASUWT has 2 seats and VOICE 1 seat.

On the Teachers' Side, EIS has 8 seats, SSTA 1 seat and NASUWT 1 seat. The final seat is shared by VOICE and SSTA by annual rotation. The EIS normally holds the chair and secretary posts on the Panel.

The SNCT sets out pay and conditions of service in the SNCT Handbook which can be found on the SNCT website (<http://www.snct.org.uk/>). From time to time changes to the Handbook, including any agreements on pay or conditions of service, are issued in Circulars which update the Handbook. Full details of pay arrangements is found in Part 2: Section 1 of the Handbook.

The SNCT determines the pay of teachers, music instructors, educational psychologists, quality improvement officers and education support officers employed by Scottish local authorities.

With the exception of short term supply teachers teachers are paid in accordance with their years of teaching service. Promoted staff have salaries determined by a job sizing process.

A probationer teacher is placed at Point 0 of the Main Grade Scale. Following successful completion of the Standard for Full Registration a teacher will normally move to scale Point 1 of the Main Grade Scale. Annual increments are payable from August each year if a teacher has qualifying period of employment amounting to 26 weeks in each salary year (1 August to 31 July).

A teacher who returns to teaching within a 10 year period may be placed at the point on the main grade scale held when that teacher left, in accordance with the SNCT Handbook.

A Council can award additional salary placement points for recognised non-teaching experience which is linked to general life skills, such as working with children or is relevant to the curriculum taught.

Conditions of Service

The SNCT Handbook sets out Conditions of Service for teachers and associated professionals employed by Scottish Councils.

Certain aspects of conditions of service can only be determined by the SNCT. These include the working week and working year, annual leave entitlement, class size, sick leave, family leave including maternity leave, parental leave and adoption leave, main duties and the staff development framework.

The SNCT has devolved a number of conditions of service issues to local level. These devolved matters include cover agreements, appointment procedures, specific duties and job remits, transfer of temporary teachers to permanent staff, arrangements for school based consultation, promotion procedures, other leave and absence arrangements and disciplinary and grievance procedures. Local Negotiating Committees for Teachers (LNCTs) agreements should be available on each council's website and may also be found on the SNCT website.

Teachers employed by Scottish Councils are required to be registered with the General Teaching Council for Scotland (GTCS), are required to meet and maintain Professional Standards set by GTCS and to participate in the Professional Update Scheme, established by GTCS.

Teachers are also required to be registered in the PVG (Protection of Vulnerable Groups) Scheme.

The duties of Teachers are set out in Part 2, Section 2.8 of the SNCT Handbook which is replicated below.

Specific Duties

Teachers / Chartered Teachers

Subject to the policies and practice of the school and the Council, the duties of teachers are to:

- *manage and organise classes through planning and preparing for teaching and learning;*
- *assess, record and report on the work of pupils' progress to inform a range of teaching and learning approaches;*
- *prepare pupils for examinations and where required, assist with their administration;*
- *contribute towards good order and the wider needs of the school;*
- *develop the school curriculum;*
- *contribute to the school and council planning and improvement processes;*
- *maintain and develop knowledge and skills and contribute to the professional development of colleagues including probationary and student teachers.*

Specific job remits are determined by LNCTs.

Teachers have to undertake these duties with due regard to workload and contractual obligations to allow them to focus on their core role as leaders of learning.

Teachers will not be expected to undertake the duties generally undertaken by administrative and support staff.

The SNCT sets out the class size maxima which operate in schools run by Scottish Councils. Full details can be found in Part 2, Appendix 2.9 of the SNCT Handbook.

Other than a statutory provision for Excepted Pupils, set out in Part 2, Appendix 2.9, Annex A of the SNCT Handbook, it is not open to any Head Teacher employed by a Scottish Council, to vary class size maxima.

The SNCT Handbook sets out detailed provisions for Family Leave. These can be found in Part 2, Section 7 of the SNCT Handbook which covers maternity leave and pay, adoption leave and pay, shared parental leave and pay, surrogacy leave, maternity and adoption support leave and pay and parental leave.

LNCTs also administrate a career break scheme based on guidance from the SNCT. There is no automatic entitlement to a career break and Councils have to consider requests based on the exigencies of the service.

Councils can also allow flexible working requests based on statutory provisions. It should be noted that there is no statutory entitlement to reduce working hours but Councils are required to ensure that requests are considered in accordance with legal requirements, including the right of appeal.

LNCTs will set out local arrangements for special leave, including court or jury service, preventative medical examinations, family sickness or bereavement, paid or unpaid leave for other reasons.

Working Hours

Teachers employed by Scottish Councils are deployed for 195 days annually. 190 days are days of pupil contact, 5 days are set aside for in-service.

Other than short term supply teachers a teacher has a 35 hour working week.

The working week has three elements. The first element is class contact time which is set at a weekly maximum of 22.5 hours.

The second element provides each teacher with a personal allowance, set at no less than one third of class contact time. The use of this time is solely at the discretion of the individual teacher and is for preparation and correction determined by the teacher.

The third element relates to the use of the time remaining, 5 hours weekly, is for a school's Working Time Agreement. The Working Time Agreement must be agreed with reference to guidance issued by the SNCT in Appendix 2.7 of the handbook and in accordance with Appendix 2.17, **Code of Practice on Working Time Arrangements for Teachers** and Appendix 2.18

Working Time Agreements – Managing Teacher Workload.

The activities which are undertaken collectively in a schools working time agreement have to subject to school based negotiations and agreement and are subject to monitoring by each LNCT. Following the 2015 -17 Pay Agreement each school is required to consider workload implications.

It is open to teachers to carry out any tasks, which do not require the teacher to be on the school premises, at a time and place of their choosing.

In addition to the 35 hour working week teachers shall have to undertake a maximum of 35 hours annually on Continuous Professional Development. (CPD)

Note: A teacher who is on a part-time contract will have a pro rata requirement. For example, a teacher on a 0.5 FTE contract will have a 17.5 hour week, with a maximum of 11.25 hours class contact and so on.

Sick Leave

When a teacher has 18 weeks continuous qualifying service with Scottish Councils the teacher will be entitled to a sickness allowance which is based on length of service.

This entitlement subsists unless there is a break of two weeks or more in employment with Scottish Councils. A newly qualified teacher will have until 1 November of the year following their entry into the Induction Scheme to receive a first teaching appointment, without having to requalify for sickness allowance.

Sick leave entitlement is based on service, starting from 18 weeks qualification up to a maximum of 6 months full pay, 6 month half pay is set out in Part 2, Paragraph 6.6, of the Handbook

Notification procedures to notify employers of absence will be agreed by each LNCT. Each Council will also operate an attendance management procedure.

The SNCT makes provisions for teachers who are absent arising from work related injuries or illness or arising from crimes of violence or assault in the course of employment.

When a teacher is absent through illness and misses days of paid leave during holiday periods can the teacher may be entitled to compensatory leave depending on the length of absence.

Contracts of Employment

Each LNCT will agree a statement of particulars which is the contract of employment. Legally any employee who has a contract which lasts for 4 weeks or more is entitled to be issued with a written statement within 8 weeks.

The statement has to set out the nature of the engagement, the job title and place of work, pay arrangements, hours of work and holiday entitlement, sickness entitlement and absence notification, pension arrangements, grievance and disciplinary procedures and reference to where other Council policies can be accessed.

There is a range of contractual provisions. Teachers can be employed on full time or part time basis, on permanent, temporary or supply contracts.

A fixed term, temporary contract should have a clear end date which relates to a specified reason (e.g. a secondment) or a specific event (e.g. return from maternity leave) and which specifies the notice period. The SNCT has a Code of Practice on the Use of Fixed Term Temporary Contracts. (Part 2 Appendix 2.8 of the Handbook).

Short term supply teachers are normally employed to cover absences of up to 2 days. The pay of short term supply teachers is set at Point 1 of the main grade scale unless they are not fully registered.

When a teacher is required for short term supply the terms of engagement should be explicit at the outset.

The pay arrangements should be clear in the statement of particulars. Permanent teachers will normally be paid in monthly instalments although one Council currently operates 13, 4 week payments for teachers. Temporary teachers are normally paid on a daily or hourly basis. The daily rate of pay is set at $\frac{1}{235}$ of the daily rate with holiday pay set for each day worked at 0.2051 (of annual salary).

Grievance and disciplinary procedures are set out by each LNCT within a framework set by SNCT. A grievance entitles a teacher who has a concern about aspects of Working Life to have a formal meeting to seek resolution to that concern. The disciplinary procedure operates to address issues of conduct or capability. The SNCT framework includes the Framework of Teacher Competence, the GTS procedure, to tackle perceived underperformance. Where a teacher raises a grievance on a conditions of service matter which is determined by the SNCT appeal can be made to the SNCT.

The Teacher Induction Scheme

The Teacher Induction Scheme guarantees a one year training post in a Scottish Council School. The scheme applies to students who graduated from a Scottish Higher Education Institution with a teaching qualification whose training has been publicly funded.

Teachers on the Induction Scheme are placed at Point 0 of the main grade pay scale during the placement.

The maximum weekly class contact for teachers on the Induction Scheme is 18.5 hours.

Placement on the Teacher Induction Scheme is arranged by GTCS following submission of preferences submitted by the applicant. It is open to an applicant to volunteer for placement across Scotland. The Preference Waiver attracts a payment which is set out by Scottish Government.

The Alternative Route to Complete Probation

It is open to newly qualified teachers to complete the probationary period by completing a number of days employment over a defined period set by GTCS to meet the standard for Full Registration.

The teacher shall be responsible for securing relevant employment and will be under the same contractual requirements as other teachers. During the probationary period the teacher will be paid at Point 0 of the SNCT maingrade scale.

Pensions

The majority of teachers and associated professionals in Scotland are members of the Scottish Teachers' Pension Scheme. Music instructors are normally in the Local Government Pension Scheme.

The Scottish Teachers' Pension Scheme 2015 is a defined contribution Scheme in which the contributions from Teachers are based on salary levels. Employers pay a contribution which currently is 17.2%. The scheme is a Career Average Revalued Earnings (CARE) Scheme which on an annual basis adds to a pension pot which is payable on retirement.

New teachers are automatically enrolled in the Scheme. Contributions are tax free and on retirement a tax free lump sum can be taken. Pension in retirement is index linked.

The Pension Scheme has a number of key features such as ill health retirement provisions, death and family benefits, including benefits for unmarried partners. There are also schemes to improve your pension in retirement. Members who are considering improving their pension can receive advice from EIS Financial Services (online enquiries@eisfs.org.uk and telephone 0141 332 8004).

Further pension details can be found on the EIS website (under pensions) and on the SPPA website (<http://www.sppa.gov.uk/>). The EIS strongly encourages all members to remain within the Scottish Teachers' Pension Scheme to benefit from an attractive occupational pension for which your contributions are tax free and which requires employers to make a significant contribution.

The General Teaching Council (Scotland)

The General Teaching Council (Scotland) is an independent body which regulates the teaching profession in Scotland.

Entry to teaching in Scotland requires all teachers to be registered with GTCS. Teachers can be fully registered, provisionally registered or provisionally (conditionally) registered which applies to those who qualify outside Scotland but who do not meet the full criteria for registration.

Progression from provisional registration to full registration requires

evidence that a teacher has met the Standard for Full Registration (SFR).

A teacher, who is provisionally registered or who is provisionally, conditionally registered is paid at scale point 0 (the “probationer” point) of the main grade scale and can only progress when the SFR is met.

Teachers are also required to pursue the GTCS Professional Update process, which requires teachers to engage in professional learning on an ongoing basis and participate in Professional Review and Development processes and to have Professional Update signed off every 5 years.

The GTCS also supports the career aspirations of teachers through the Standard for Career-Long professional Learning and the Standard for Leadership and Management.

The GTCS has a regulatory role exercised through its Fitness to Teach Process. Teachers whose conduct or competence is questioned can be asked to appear at a Fitness to Teach Panel. This process can arise from criminal charges disposed of in courts of law, cases referred by employers, usually following a Council’s internal disciplinary procedures or following complaints by members of the public which the GTCS deems to be relevant.

Teachers should maintain an awareness of the GTCS Code of Professionalism and Conduct which sets out the Professional expectations on teachers in their private life. The GTCS also publishes guidance on the use of Electronic Communication and Social Media.

Health and Safety at Work

The main responsibility under the Health and Safety at work etc. Act (HSWA) 1974 rests with employers who have to take reasonable care for the health and safety of their employees and others who are on their premises. This sets an obligation to look after the physical and mental wellbeing of teachers when they are at work. Teachers should have a safe place of work.

Employers should have clear policies on health and safety issues and inform employees of risks, the assessment of risks and all health and safety requirements. Employers should consult with health and safety representatives on all health and safety matters.

Schools will normally have a Senior Manager who is responsible for health and safety and the EIS will have a Health and Safety Representative to advise members on health and safety.

Pupil Indiscipline

The EIS has detailed advice on our website to deal with pupil indiscipline.

Teachers are entitled to work safely without being subject to physical or verbal abuse. Protection from abuse extends to abuse and threats which are placed on social media.

Teachers who are subject to assault should ensure accidents are recorded in the school's accident book, should complete a Violent Incident form and are advised to report the matter to the police.

Teachers are not required to be trained in physical restraint. The EIS does recognise that teachers who work in units or schools which deal with extremely challenging behaviour may opt to be trained.

Child Protection

All teachers should be thoroughly familiar with both a Council's child protection policy and a school's procedure to support a policy. Training on child protection should be planned annually and teachers should have copies, or access to copies, of a Council's policy and school procedures.

Each school must have a designated child protection officer. The school must also have a designated named person for each child under the Children and Young People (Scotland) Act 2014.

The Independent Sector

Independent Schools in Scotland are run by school boards or by charitable trusts.

A number of independent schools in Scotland belong to the Scottish Council for Independent Schools (SCIS). SCIS is an advisory and support body and employment, pay, conditions of service and pensions are a matter for each independent school although some independent schools operate across a number of establishments.

Some independent schools do follow SNCT pay scales. However, these

schools are not part of SNCT bargaining machinery. Therefore, on taking employment in an independent school members are encouraged to be clear regarding rates of pay, incremental progression, and allowances for extra-curricular activities which can be a contractual requirement. Most teachers in the independent sector are eligible to join STPS. Contracts of employment must specify the pension arrangements to be made.

Most teachers in independent schools are registered with the General Teaching Council for Scotland and this will soon be a statutory requirement.

Legal Support for Members

Legal support for members may be available to members on matters which relate to their employment.

Such support is organised through the Institute's Case Handling Protocol which is available on the EIS Website. Normally, the request for support is made to EIS Headquarters through the school representative, Local Association Secretary or Area Officer.

The funding of all legal casework is handled by the Employment Relations Committee which deals with all requests on a confidential basis.

Benevolent Support for Members

The EIS can provide benevolent support for members who are subject to genuine financial hardship.

Each EIS local association has a Benevolent Fund correspondent who can advise any member with financial hardship on how the support works and how to apply.

Benevolent Fund support is authorised by the Employment Relations Committee which deals with all requests on a confidential basis.

EIS contacts

Normally the first line of contact is through a school's representative. However, the full list of EIS contacts can be found in your EIS diary and on the website. **www.eis.org.uk**

