



Circular Number 0024/2015

**To: The Managerial Authorities of
Recognised Secondary, Community and Comprehensive Schools and
The Chief Executives of Education and Training Boards**

**IMPLEMENTATION OF THE RECOMMENDATIONS OF THE EXPERT GROUP
ON FIXED-TERM AND PART-TIME EMPLOYMENT IN PRIMARY AND SECOND
LEVEL EDUCATION IN IRELAND**

Introduction

This circular sets out the detailed arrangements and procedures for the implementation of the recommendations of the Expert Group on Fixed-Term and Part-Time Employment in Primary and Second Level Education in Ireland and are for implementation at the commencement of the school year 2015/2016. The report was presented by Peter Ward SC and is hereinafter referred to as the Ward Report.

The original arrangements and procedures set out in Department circulars were based on compliance with the requirements of the Protection of Employees (Fixed Term Work) Act 2003. Under that legislation where a fixed-term employee is employed by his/her employer on two or more continuous fixed-term contracts and the aggregate duration of an employee's continuous fixed-term contracts exceeds four years, that employee shall be deemed to be employed under a contract of indefinite duration (CID) (and no longer a fixed term contract) unless there were objective grounds set out in the previous contract. While the legal provision remains unchanged, the terms and conditions of teachers have been improved through the Haddington Road Agreement (HRA).

The initial improvement arising from HRA reduced the basis of eligibility for a CID to a period in excess of three years. The recommendations in the Ward Report make further improvements to the terms and conditions of teachers.

Content of Circular

This circular has five parts:

Part A sets out the revised terms and conditions for teachers that are created by the implementation of the Ward Report.

Part B sets out the process of sanctioning CIDs by the Department/Education and Training Boards (ETBs) that are sought based on the revised terms and conditions introduced by the Ward Report. It also sets out the procedures to be followed by employers and teachers.

Part C sets out the Adjudication Process.

Part D sets out the Redeployment Scheme to address a mismatch at second-level between curricular needs and staffing resources.

Part E deals with a number of additional matters.

Part A

The revised terms and conditions of teachers in relation to being granted a CID which are effective from the commencement of the school year 2015/2016

(1) Reduction of the period of qualification for eligibility to a CID

The qualification period for the granting of an initial CID is reduced from a period of continuous employment in excess of three years with the same employer to a period of continuous employment in excess of two years with the same employer; all of such employment must have been in a post(s) funded by monies provided by the Oireachtas. This reduction means that a teacher will be awarded a CID rather than a further Fixed Term Contract provided the conditions and procedures set out in this circular are satisfied.

Previously a CID could be acquired provided the post continued to be viable for a reasonable period, came from the allocation, did not relate to temporary cover and where there were no objective grounds. This will continue to be a condition for eligibility but as amended by (2) following. It should be noted that a reasonable period is considered to be at least a full school year.

(2) Change in relation to qualification for eligibility for a CID in the case of providing cover for certain teacher absences

Heretofore a post which concerned providing cover for a teacher absent on an approved scheme of leave of absence did not provide eligibility for a CID. The Ward report, however, extends eligibility to include covering for a teacher absent on two specific schemes of absence but this is confined to covering the absence of (i) a teacher on career break or (ii) a teacher on secondment.

(3) Hours to be included in a CID that is being awarded under 1 and 2 above

When a CID is being awarded under the new terms and conditions the hours of the CID will be those hours for which the teacher was engaged on a fixed term contract for the full school year prior to the issuing of the CID and those hours are not confined to hours reckoned under (1) or (2) above.

(4) Teachers that hold a Part-Time CID and the granting of a further CID in respect of additional hours

Where a teacher who is the holder of qualifications appropriate to the sector has a part-time CID and the Board of Management/ETB has employed this teacher for additional hours (i.e. a part-time fixed term contract in addition to a previously acquired CID in the school/ETB), and the hours concerned continue to be viable and available within the school/ETB's allocation, the qualifying period of continuous employment for a CID based on those additional hours is

reduced from a period in excess of three years to a period of continuous employment in excess of one year.

(5) CID and permanent status

A teacher employed on a contract of indefinite duration holds an employment status that is equal to that of a permanent teacher.

(6) Termination of First Fixed-Term Contracts

All first fixed-term contracts must be terminated at the end of the school year and if the employment is continuing for the following year, it must be automatically re-advertised by the employer and a new recruitment process undertaken for the filling of the post for the second year. Therefore, the employer must terminate the contract and cannot provide a new fixed term contract to any teacher unless it advertises and interviews first.

(7) Redeployment

This circular also makes changes to the terms and conditions of teachers in relation to redeployment.

Post-primary teachers who qualify for a CID through the reduction of the qualifying period to a period in excess of two years continuous employment will be liable to redeployment in circumstances where their subject(s) become surplus to the curricular requirements of the school in which they qualify for the CID. This new liability to redeployment is in addition to any liability the person who acquires the CID may have under the existing redeployment schemes.

A teacher who acquires a CID as a result of covering for a teacher on career break or secondment will be placed on the relevant redeployment panel for redeployment immediately prior to the return of the teacher that s/he is covering for.

Part B

Sanctioning of CIDs and the procedures for acquiring a CID based on the revised terms and conditions

(1) Department/ETB Sanction

The sanction of the Department/ETB must be obtained before an Oireachtas funded CID or a further CID in respect of additional hours can be awarded to a teacher. The Department/ETB will sanction the CID in accordance with the revised terms and conditions of teachers set out in Part A of this circular.

Where a post covered by A(1) and (A2) exists from the commencement of the 2015/2016 school year, the Department/ETB will sanction a CID for a teacher in an Oireachtas funded post who satisfies all of the following conditions:

- (i) s/he is registered on a current basis with the Teaching Council and
- (ii) s/he is the holder of qualifications appropriate to the sector and
- (iii) s/he has had in excess of 2 years continuous teaching service under two or more successive written contracts of employment with the same employer that were paid for out of monies provided by the Oireachtas and the most recent such contract is comprehended by 1 or 2 of Part A and a new interview process was conducted.

Unless s/he is excluded by reason of the following

- (iv) s/he is covering for another teacher absent on an approved scheme of leave other than covering for a teacher absent on career break or secondment and this was set out as an objective ground in writing in the previous contract.

(2) Application procedures for the 2015/16 school year in relation to seeking a CID rather than a further fixed term contract where a teacher meets the sanctioning conditions set out in B.1

Interim arrangements 2015/16 - Interview not mandatory

Where at the commencement of the 2015/16 school year a teacher has entered into the third or more continuous year of employment in a post comprehended by A(1) and A(2) the teacher is eligible to be considered for a CID rather than a further one year fixed term contract without further interview.

Application process by school

The school should apply to the Department to have the teacher placed on the payroll as a teacher who is eligible for a CID.

The application form for a CID to be submitted by the school will require the school and the teacher to certify that the application is in respect of the continuation of a post that has been funded from monies provided by the Oireachtas only and that the conditions as laid out in B1 are satisfied in full.

Where the teacher is employed by an ETB, the ETB will make appropriate application arrangements to reflect its dual role as employer and paymaster

Certification

The school must also certify that the CID sought is in accordance with the terms outlined in this circular and that it is in respect of a viable post as per A(1) and A(2).

The teacher must also sign the form.

Similar certification will be required within an ETB.

(3) Termination of all first year fixed term contracts, advertising of the posts and mandatory interview process.

Termination of First Year contracts.

All one year fixed term contracts will terminate at the end of the school year.

Advertising and interviews

Where the post will exist for the school year 2015/2016 the employer must advertise the post and conduct an interview. In advertising the post the employer must specify the nature and duration of the post.

Notification to teacher

The teacher who held the relevant one year fixed term contract in the 2014/15 school year must be notified by the employer that the post is being advertised and be provided with the details of the application process.

Certification

In respect of such a post when the school advises the Department that it wants to have a teacher placed on a new one year fixed-term contract for the 2015/16 school year and have the teacher placed on the payroll the school must certify that the post had been advertised and that interviews were conducted and that the teacher was successful following interview and is entering the second year of continuous employment.

Similar certification requirements will apply within an ETB.

Part C

Adjudication

The existing adjudication system was designed to facilitate a quick, efficient resolution of disputes about the award or failure to award a CID as required by law. The system is voluntary and not binding; any party is free to pursue statutory relief if so desired. The adjudication system will remain in place to consider any matter raised in accordance with the relevant circulars and the law.

The voluntary adjudication process will also be available to deal with any disputes (e.g.in relation to awarding a CID, the number of hours that should be included in a CID or additional CID) and where the party concerned is relying on the revised terms and conditions of teachers set out in Part A and the application process and procedures set out in Part B .

Since the changes that have resulted from HRA are more beneficial to teachers and are based on an industrial relations agreement as distinct from the requirements of law, it may or may not be possible to pursue statutory relief.

An application for adjudication that relies on the new terms and conditions regarding awarding a CID or additional CID as set out in this circular and the associated procedures and

arrangements set out in this circular will not however preclude any party from pursuing statutory relief where it is available.

Part D

Redeployment Scheme to address a mismatch at second-level between curricular needs and staffing resources

1. The redeployment scheme set out in this Circular is applicable where a school/ETB has in its employment one or more teachers comprehended by the scheme, i.e. teacher(s) in an Oireachtas funded post who qualify for entitlement to a CID with effect from the commencement of the 2015/16 school year on the basis of the reduced qualification period of a period of continuous employment in excess of two years

and

- i. the school/ETB determines that a mismatch exists between its curricular needs and its staffing resources, **and**
- ii. the school/ETB concludes that this mismatch may be wholly or partially addressed by the redeployment of a teacher or teachers covered by this scheme.

A mismatch exists when a school/ETB has more teaching resources in a subject(s) than is required to meet the curriculum needs in the subject(s) in a particular defined school year.

2. The process at No. 1 above may occur in any recognised school/ETB in any school year from 2015/16 onwards. However, the earliest any such redeployment of a teacher will occur is from the start of the 2016/17 school year.
3. Where a school/ETB is comprehended by the *redeployment scheme for teachers surplus to requirements other than in situations of school closure*, the identification of surplus teachers set out in that scheme should be concluded in advance of any recourse to this curricular mismatch scheme.

Where a curricular mismatch exists within an ETB school, the ETB must first seek to address the mismatch through the internal transfer mechanism before recourse to this scheme.

Nomination of a Teacher for Redeployment under this Scheme

4. Where a school/ETB is satisfied that the circumstances set out in paragraph 1 Part D above apply, it may make a return to the Director of the Redeployment Scheme, identifying the teacher(s) covered by this scheme to be redeployed starting from the commencement of the Redeployment Scheme in 2016.

5. In the event that a school/ETB has in its employment only one teacher covered by this scheme in the relevant curricular area(s), then the school/ETB may nominate that teacher for redeployment.
6. In the event that a school/ETB has in its employment more than one teacher covered by this curricular mismatch scheme in the relevant curricular area(s), then the school/ETB will follow the process set out in paragraph 7 of *the redeployment scheme for teachers surplus to requirements other than in situations of school closure* (as referenced in paragraph 3 above) in respect of teachers comprehended by this scheme, so as to determine the teacher(s) whose redeployment will best address the curricular mismatch identified by the school/ETB.
7. In submitting details of the nominee(s) for redeployment to the Director it will be open to the teacher(s) so nominated to set out, in a form to be provided, details of where he/she considers that the process and procedures set out in this agreement were not complied with. The Director will consider these concerns and satisfy himself/herself that the process and procedures were followed in a correct manner.

Notification of Available Posts

8. There is a requirement in all the Redeployment Schemes at second-level, including the curricular mismatch scheme, for all applicable vacancies to be notified to the Director of Redeployment. In addition, where a school/ETB nominates a teacher for redeployment under the terms of this curricular mismatch scheme, any resulting vacancy within the school/ETB's approved teaching allocation must be notified to the Director.

Redeployment of Teachers

9. Redeployment of teachers under this scheme shall operate, as outlined in this circular and in accordance with the standard provisions of the *Redeployment Scheme for teachers surplus to requirements other than in situations of school closure*.

Part E

Miscellaneous Provisions

Note: Dates contained in this circular relating to a particular school year are by way of example and to facilitate understanding. The procedures authorised in this circular are applicable in future years until further notice.

Compliance

The new terms and conditions that grant a CID or an additional CID create permanent employment in publicly funded posts. It is important that best practice norms relating to fairness, transparency and probity that attach to public appointments are fully followed and the procedures set out in this circular are adhered to.

It is important therefore when the sanction of the Department or an ETB is sought that all necessary documentation and certification provided is accurate.

Audit

The Department may audit (or have audited) the practices within schools and ETBs in relation to the implementation of this circular in relation to best practice, compliance and irregularities.

Schools and ETBs should retain all relevant records securely that relate to or support any application for a CID so that they are available for audit.

General revisions to recruitment procedures and practices

The Department is engaging with the Education Partners with a view to finalising recruitment procedures for the 2015/16 school year having regard to standards set across the public sector for appointments to publicly funded posts. The Department will also draft and issue for consultation to the Education Partners a CID/permanent and fixed term contracts. The CID template contract as appended to Circular 0010/2006 is attached at appendix 1 for information.

This circular amends the series of Circulars giving effect to the agreement on the implementation of the Protection of Employees (Fixed-Term Work) Act 2003 and in particular paragraph 3.10.1 and paragraph 4.2 of Circular 0034/2009.

Where an employer issues a CID and that CID is to be Oireachtas funded, the employer must comply with the terms and conditions of this Circular.

Please ensure that copies of this circular are provided to all members of the Board of Management/Education and Training Board and that its contents are brought to the attention of all teachers in your employment including those on leave of absence.

This Circular can be accessed on the Department's website under www.education.ie Home – Schools & Colleges – Information – Employment Terms and Conditions – Fixed Term Contracts.

All enquiries regarding this circular should be addressed to the employer (school/ETB) or the relevant management body in the first instance. Further enquiries may be addressed to teachersna@education.gov.ie in relation to awarding of CIDs and to allocations@education.gov.ie in relation to redeployment.

Alfie Barrett
Teachers/SNA
Terms and Conditions
27 March 2015

Padraig Maloney
Payroll Division
27 March 2015

Hubert Loftus
Teacher Allocations
27 March 2015

APPENDIX 1 (Extract from Circular 0010/2006)

Contract of Employment Teacher's Contract of Indefinite Duration Post Primary Sector

1. Parties:

Employee:

Employer:

2. Title of Post: Qualified teacher on a contract of indefinite duration

3. Nature of Position

The purpose of the contract is to teach the assigned number of hours each week over the course of the full school year.

4. Hours of Work

The hours of the contract of indefinite duration will be the hours for which the employee was engaged on a fixed term contract in the school/academic year prior to the issuing of the CID (other than those hours which are for the provision of temporary cover and unless varied by the terms of Circular Letter PPT 14/05).

5. Meaning to be given to a Contract of Indefinite Duration

A person who has an expectation that, subject to the normal date of retirement in the employment, she or he will be retained in the employment and will not be dismissed without there being any good reason such as misconduct or unfitness for their position, or other compelling or unavoidable circumstances. Any dismissal shall be achieved by the application of the agreed termination arrangements for the particular sector or the application of the relevant statute, as the case may be (as per the Transitional Agreement of September 2005 – Circular Letter PPT14/05).

6. Duties

To carry out the professional duties appropriate to a permanent wholetime teacher in so far as they relate to the contracted teaching and non-teaching duties.

7. In-service training

The arrangements for training and professional development will be on the same basis as for permanent wholetime teachers.

8. Travel and Subsistence Allowances.

Travelling and subsistence allowance will be paid in respect of necessary journeys authorised by school management in accordance with the conditions laid down and at rates agreed for permanent teachers from time to time by the Minister for Education and Science.

9. Extern Work.

The employer must be notified of all external work. Any external work engaged in by the appointee must not be such as to interfere with the fulfilling of the appointee's duties and responsibilities to the school.

The contract may also be terminated in the event that the teacher's work, when calculated in the aggregate, exceeds the limit of 48 hours for the previous relevant period as set out in Section 15 of the Organisation of Working Time Act, 1997. Any such decision to terminate the contract will be taken in accordance with appropriate procedures.

10. Annual Leave

Annual leave arrangements may be granted in accordance with the conditions laid down by the Minister for Education and Science from time to time for permanent whole-time teachers.

11. Maternity/Adoptive/Carers /Parental/Force Majeure Leave

Maternity/Adoptive/Carers/Parental Leave will be granted to the appointee in accordance with the arrangements authorised by the Minister for Education and Science. The provisions of the Parental Leave Act 1998 and any subsequent Acts replacing or amending that Act will apply to Force Majeure leave.

12. Sick leave

Certified and uncertified sick leave may be granted in accordance with the conditions laid down for permanent teachers by the Minister or Education from time to time.

13. Remuneration

The salary scale attaching to the position is the teachers' common basic scale together with appropriate allowances. Part-time teachers will be paid on a pro-rata basis. Payment will be made in arrears by direct transfer to a bank account nominated by you on a fortnightly/monthly basis.

Hours worked over and above the contracted hours will be paid in accordance with rates agreed from time to time by the Minister for Education and Science. The total number of hours for which a part-time teacher may be timetabled will not exceed 22 hours in any one week.

14. Collective Agreements

These arrangements are subject to collective agreements arrived at from time to time between the teacher unions, managerial authorities of schools and the Minister for Education and Science.

15. Declarations and Signatures

I have read and fully understand the foregoing Contract of Employment and I agree to abide by the terms of this contract and further warrant that all statements and representations which I have made in application for this appointment are true and correct.

Signed :- _____

Signed:- _____

(on behalf of the Employer)

(appointee)

Date :- _____

Date :- _____