



Circular Number 0023/2015

**To: The Managerial Authorities of
Recognised Primary Schools**

**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 four 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 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 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 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), and the hours concerned continue to be viable and available within the school 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

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.

In the event that through the implementation of the Ward Report the award of a CID to a post primary qualified teacher in a special school results in a curricular mismatch in the school, the terms of the Redeployment Scheme to address a mismatch at second-level between curricular needs and staffing resources as set out at Part D of Circular 0024/2015 will be used as a means to address the curricular mismatch.

Part B

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

(1) Department Sanction

The sanction of the Department 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 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 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.

Certification

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

The teacher must also sign the form.

(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.

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

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 is sought that all necessary documentation and certification provided is accurate.

Audit

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

Schools 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

Schools shall fill posts in accordance with the recruitment procedures as published by the Department from time to time. The Department will also draft and issue for consultation to the Education Partners a CID/Permanent and fixed term contracts.

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 paragraphs 2.2, 2.2.1, and 4.7 of Circular 0082/2007.

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 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) 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 primaryallocations@education.gov.ie in relation to redeployment.

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Terms and Conditions
27 March 2015

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27 March 2015

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