

# **Points to Note in Handling Appointment Matters in Aided Schools**

## **I. General**

1. To observe impartiality and safeguard interests, schools should establish an open, fair, transparent and competitive appointment system. Schools should set up guidelines and formal procedures governing the appointment of staff.

## **II. Recruitment of Staff**

1. All vacancies for appointment should be made public for application. When considering putting up recruitment advertisements, schools should ensure that the advertisements should not carry any information suggestive of any kind of discrimination, including race, religion, sex, marital status, pregnancy, disability, or family status (e.g. being a single parent), etc.
2. Shortlisting criteria should be pre-determined and documented after endorsement by the SMC/IMC.
3. To prevent any applications being misplaced without a trail, all applications received should be date-stamped and properly recorded.
4. The shortlisting process should involve more than one person. If this is not feasible due to the small number of staff, those applications which have not been shortlisted should be made available for random checks by another person (e.g. the school supervisor or an SMC / IMC member) to ensure that qualified applicants have not been left out.

## **III. Selection of Staff**

1. Selection of staff must be determined solely on the basis of merit and ability assessed according to a set of criteria relevant to the requirements of the work to be performed.
2. Schools should have a selection panel to conduct recruitment interviews with the candidates. The selection panel may comprise an SMC / IMC member, the school head, a senior teacher or a senior member of the administrative staff, depending on the job requirements of the vacant post. The role of the selection panel is to assess the relevant suitability of applicants and to make recommendations on the applicants who best meet the criteria.

3. To avoid conflict of interest, any person who and whose family member has an interest in the appointment must not be in the selection panel. Other specific circumstances, which may constitute a conflict of interest, are the candidate being a family member, relative, personal friend of the selection panel member or a person to whom he / she is obligated. Selection panel members as well as managers of schools should also be required to declare any conflict of interest that may arise.
4. An objective assessment system should be devised, including the setting of pre-determined and consistent assessment criteria and standard forms for recording assessments made by individual panel members.
5. Assessment of candidates should be properly documented and recorded. All employment-related personal data should be properly kept. Schools may refer to section 7.4.5, Appendices 7 and 8 of the School Administration Guide for the information/ documents recommended for inclusion in the staff personal file and their retention periods. Should schools have enquiries relating to the Personal Data (Privacy) Ordinance, schools may consult the Office of the Privacy Commissioner for Personal Data, Hong Kong.

#### **IV. Offering of Appointment to Staff**

1. To ensure the quality of education, schools should consider giving priority to trained teachers in appointment.
2. To ensure that the job applicants<sup>Note 1</sup> have met the appointment requirements for selection purposes, schools must verify carefully the qualification documents of the applicants, such as their Certificate of Registration as a Teacher and/or Certificate of Service from their previous employers. Before employing a new staff, the Supervisor of an aided school is advised to check whether the staff has fully complied with all the terms of the contract he/she signed with his/her previous employers. This is to avoid any inconvenience that may be caused to the parties concerned.
3. Schools should also require the applicants to declare in the job application form and/or other related documents whether they have been convicted of any criminal offence in Hong Kong or elsewhere, or whether their registered teacher or permitted

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<sup>Note 1</sup> Applicants include staff appointed on temporary/contract/part-time basis, native-speaking English teachers directly employed by schools, daily-rated supply teachers/staff, staff paid out of other cash grants, teaching assistants, coaches/instructors leading extra-curricular activities and/or those self-employed persons/staff deployed to work in schools by service contractors.

teacher status has been cancelled / refused, and to provide the details<sup>Note 2</sup>. In case of doubt about his/her registration status, the school should require him/her to apply to the Bureau for release of his/her registration and related details to the school. Schools may also consult the applicants' previous employers about their job performance with their prior consent to ensure that the selected candidate is suitable for the post.

4. The Hong Kong Police Force has launched the Sexual Conviction Record Check (SCRC) scheme<sup>Note3</sup> since 1 December 2011. To further safeguard the well-being of students, schools are strongly advised to adopt the SCRC scheme to check whether their prospective employees have any sexual conviction records and request them to undergo SCRC at the advanced stage of the employment process. Applications for SCRC should be submitted by the prospective employees voluntarily. Should the SMC/IMC decide not to request certain types of or individual prospective employees to undergo SCRC, there should be a thorough deliberation on the reasons in a meeting of the Committees and the justifications have to be properly documented in the notes of meeting. Schools can refer to EDBCM No.179/2011 for details.
5. Schools are reminded that they are required to ensure that the teachers employed are registered teachers (RTs). If the teacher appointed possesses the necessary qualifications for RT registration, he/she has to apply to be an RT before assumption of duties. Schools have to seek approval from the Bureau for employing qualified applicants as permitted teachers (PTs) only if there are no suitable registered teachers available for employment. The schools have to apply for teaching permits for these teachers before their assumption of duties. The permit will be deemed invalidated upon cessation of the PT's employment with the school specified therein. RT and PT application forms (including the Guidance Notes) are obtainable from this Bureau's website at <http://www.edb.gov.hk/>.
6. The Supervisor/IMC, on behalf of the SMC/IMC, is required to issue to all teachers letters of appointment setting out conditions of service, salary scale and conditions of termination of appointment. He/She should sign on every copy of the letter of appointment for teachers. Besides, schools should state in the contract of services

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<sup>Note 2</sup> Schools should state the consequences of refusing to disclose the necessary information or intentionally providing false information and/or withholding any material information (e.g. job application will not be considered and/ or any employment offered may be terminated). Schools should also inform applicants that any conviction of criminal offence(s) may not necessarily render their applications unsuccessful.

<sup>Note3</sup> The Sexual Conviction Record Check (SCRC) is an administrative scheme to enable employers of persons undertaking child-related work and work relating to mentally incapacitated persons (MIPs) to check whether their prospective employees have any sexual conviction records. This scheme serves to help employers assess the suitability of applicants for child or MIP-related work and afford better protection to children and MIPs from sexual abuse. Details of the SCRC scheme are available at the Hong Kong Police Force homepage (<http://www.police.gov.hk/scrc>).

the requirement for staff to report to schools forthwith any criminal proceedings against them and the consequences of intentionally providing false information/ withholding any material information (including the disciplinary action).

7. Supervisors are requested to make reference to the specimen letter and sample Conditions of Service when preparing letters offering appointment to teachers, modifying them where necessary. But while making any modification, they are required to pay attention to section 70 of the Employment Ordinance, which stipulates that -

“ Any term of a contract of employment which purports to extinguish or reduce any right, benefit or protection conferred upon the employee by this Ordinance shall be void.”

8. Supervisors are also advised to include, where appropriate, the relevant requirements e.g. Language Proficiency Requirement, Certificate for Principalship requirement in the Conditions of Service under “Other Conditions”.

9. Supervisors are also requested to note that by virtue of section 11 of the Employment Ordinance, an employer may without notice or payment in lieu suspend from employment any employee for a period of not exceeding 14 days -

(a) as a disciplinary measure for any reason for which the employer is entitled to summarily dismiss the employee under section 9 (wilful disobedience, habitual negligence, serious misconduct, fraud, dishonesty or on any other ground on which the employer would be entitled to terminate the contract without notice at common law);

(b) pending the employer’s decision whether to exercise his/her right to summarily dismiss the employee under section 9; or

(c) pending the outcome of any criminal proceedings against the employee arising out of or connected with his/her employment.

10. In case of 9 above, where the criminal proceedings are not concluded within 14 days, the period of suspension may be extended till the end of such proceedings. If a teacher is suspended for more than two days, the school may employ a supply teacher on a daily basis. Since in a school the responsibility of suspending an employee from employment rests on the SMC / IMC, the Supervisor of a school may consider including the procedure for suspension in an employment contract, although there is no absolute need to do so.

11. Supervisors are requested to note that the term *permanent* in the section on appointment to be initially on probation in the respective Codes of Aid for primary, secondary and special schools is used to distinguish the employment of teachers with relevant qualifications (as stipulated in the attachments to the Appendix on Qualifications Required for Grades of Appointment in the respective Codes of Aid) from the temporary employment of unqualified teachers. Schools, if they so wish, should also make it clear in the contracts with their teachers that, subject to the agreement between the teacher concerned and the SMC / IMC, the contract may be renewed at regular intervals, as currently practised in some schools.
12. Regarding termination of service of teachers, aided schools should ensure that for cases due to unsatisfactory performance, the procedures laid down in the relevant Appendices of the respective Codes of Aid (i.e. Appendices 7 and 8 of the Code of Aid for Secondary Schools, Appendices 8 and 9 of the Code of Aid for Primary Schools, Appendices 8 and 9 of the Code of Aid for Special Schools and Section 6 of Compendium to Code of Aid for Aided Schools which is applicable to aided schools with IMC) are observed, and for other cases, the notice requirements on schools as stipulated in the Codes of Aid (i.e. Section 57 of the Code of Aid for Secondary Schools, Section 57 of the Code of Aid for Primary Schools, Section 62 of the Code of Aid for Special Schools and Section 13.5 of the Code of Aid for Aided Schools) are followed.
13. In all cases, aided schools should ensure that the conditions and terms of appointment are in strict compliance with the Education Ordinance and Regulations, the Codes of Aid, the Employment Ordinance, and other relevant ordinances such as the Sex Discrimination Ordinance, the Disability Discrimination Ordinance, the Family Status Discrimination Ordinance and Race Discrimination Ordinance.

(revised in December 2011)