REVIEW OF PUBLIC ADMINISTRATION

EDUCATION SECTOR - HUMAN RESOURCE PROJECT

POLICY
ON THE
CONTROL OF VACANCIES

19 October 2006
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INTRODUCTION

In preparation for the establishment of the single Education and Skills Authority and the new Library Authority in April 2008, it is essential that employing authorities have measures in place to ensure the effective use of human resources including control procedures for the filling of vacancies from now until 31 March 2008.

PURPOSE

The purpose of this policy is to ensure that all reasonable steps are taken to safeguard and secure the employment of existing staff within the Education Sector. The implementation procedures should recognise the need to keep open all possible means to re-deploy staff, both within and across authorities, avoid creating new posts and use all available expedients to manage vacancies which might arise within defined groups to reduce the potential for redundancies.

SCOPE

The policy will apply to all non-school based staff within the Education Sector affected groups and includes the following employing authorities:

- The Education and Library Boards including the Regional Training Unit.
- The Staff Commission for Education and Library Boards.
- The Council for the Curriculum, Examinations and Assessment (CCEA).
- The Youth Council for Northern Ireland.
- The Council for Catholic Maintained Schools (CCMS).
- The Northern Ireland Council for Integrated Education (NICIE).
- Comhairle Na Gaelscolaiochta (CNaG).

Exclusions

This policy will not apply to:

- Teachers employed in Schools.
- Other School Based Staff.
- Civil Servants employed by the Department of Education (as Vacancy Control already exists within the NI Civil Service).

Note: Further clarification on the definition of the RPA affected groups is still required.
GUIDING PRINCIPLES

The following are the key principles which will be adopted during the implementation process:-

- Every reasonable effort will be made to avoid compulsory redundancies and retain valuable skills and experience.

- The principles of fairness and equality of treatment will be applied in the implementation of the policy and steps will be taken to ensure that the procedures do not conflict with the requirements of existing anti-discrimination and equality legislation operating in Northern Ireland and including the statutory obligations arising from Section 75 of the Northern Ireland Act 1998.

- The policy will be developed jointly by management and the trade unions via the HR Project structure and the appropriate TUS forums.

- The implementation of the policy recognises the importance of ensuring that the quality of service currently provided is maintained during the period of change.

- Throughout implementation all staff will be kept fully informed and supported. Communication will be across the sector with groups and on an individual basis where required.

INTERIM ARRANGEMENTS FOR THE FILLING OF VACANCIES

General

Until decisions are made on key issues concerning the structure, processes and location of the new Education and Skills Authority (ESA) and the new Library Authority (LA), it will not be possible to determine how the RPA will impact on staff. However, it is acknowledged that the RPA will not have the same impact on school based staff as on staff employed at the Headquarters and Outcentres of employing authorities.

The expectation is that the greatest impact on jobs will relate to:

- Heads of Department and associated managerial posts i.e. senior and middle management posts.

In July 2006 the Public Service Commission issued the second guiding principle and associated recommendation on ‘Managing Vacancies Effectively’. The advice, which is included at Appendix 1, should be adhered to when implementing this policy.

To comply with the Public Service Commission advice it is recommended that:-

1. Employing authorities should define and publicise, in conjunction with relevant trade unions, those services which will be subject to vacancy controls.

2. All vacancies should be scrutinised to decide whether they need to be filled.
3. Employing authorities should avoid creating new posts. Such posts should only be established where the employer can demonstrate an inescapable requirement for the post e.g. posts required to ensure service delivery, where new responsibilities or requirements are imposed by legislation or Government action etc.

4. Where it is considered necessary to fill a vacancy the Head of Department should submit details to the Head of Human Resources using the ‘Filling of Vacancies’ pro forma attached at Appendix 2, setting out the reasons why the post should be filled.

5. If approval is granted, the post will be filled in a temporary capacity for a maximum period up to 31 March 2008 which may be subject to extension by the ESA or the LA as appropriate. A choice should be made from the following options:

   - Temporary promotion;
   - Temporary appointment on same grade;
   - Temporary acting-up;
   - Employing staff on fixed term contracts until 31 March 2008;
   - Secondments;
   - Delaying a retirement.

The vacancy should be trawled amongst the appropriate employees within the organisation (Stage 1).

Where an employee accepts temporary promotion, acting up or secondment etc. there will be an underlying guarantee to the employee in respect of continuity of employment rights in their previous substantive post for the purposes of RPA implementation.

6. If an appointment cannot be made from the internal trawl process the next stage would be to trawl the vacancy across the Education Sector affected groups (Stage 2).

7. Where it has been clearly demonstrated by the employing authority that the post cannot be filled at Stages 1 or 2 referred to above the authority should then seek to fill the post through the redeployment of an officer who is employed in an RPA affected group and who wishes to take up a post with the organisation in which the vacancy occurs - Restricted Public Advertisement (Stage 3).

8. If an appointment has not been made from the above arrangements as a last resort the vacancy may be filled using an open public advertisement (Stage 4). It is anticipated that this stage will only be applied in exceptional circumstances.

**Note:** With reference to paragraphs 6, 7 and 8 above, consultation should take place with the appropriate trade unions.

9. The arrangements for ‘trawling’ vacancies, either within an employing authority, across the Education Sector affected groups, a restricted public advertisement on a cross sectoral basis or open public advertisement are outlined in Appendix 3.
PUBLIC SERVICE COMMISSION

SECOND GUIDING PRINCIPLE AND ASSOCIATED RECOMMENDATION

MANAGING VACANCIES EFFECTIVELY

Background

The Public Service Commission was established to make recommendations to Government on the guiding principles and steps necessary to safeguard the interests of staff and to ensure their smooth transfer to new organisations established as a consequence of Government decisions on the Review of Public Administration, taking into account statutory obligations, including those arising from Section 75 of the Northern Ireland Act 1998.

The Public Service Commission has consulted Government, the sectoral Staff Commissions and representatives of NIC/ICTU about the most appropriate way to manage vacancies as part of a wider set of arrangements which will be required to achieve the Secretary of State’s aim of making every possible effort to avoid redundancies in bodies affected by the RPA.

Guiding Principle and Associated Recommendation

The Public Service Commission recommends that, in order to minimise the risk of redundancies as a result of decisions arising from the Review of Public Administration, and recognising the need to keep open all possible means to redeploy staff, existing employing authorities should avoid creating new posts, and should also use all available expedients to manage vacancies which might arise within defined groups.

Commentary

The Public Service Commission recognises that decisions taken in relation to managing vacancies should represent a proportionate means of achieving the Secretary of State’s aim to make every possible effort to avoid redundancies in a way which is compliant with statutory obligations, including Section 75 of the Northern Ireland Act 1998. The Commission also recognises that it would be inappropriate to apply constraints to the extent that they have a detrimental effect on service delivery. Existing employing authorities should, in the first instance, and with immediate effect, and in conjunction with relevant trade unions at local and other levels, define, and publicise, those services which will be subject to vacancy management schemes as referred to below.

Existing employing authorities should be required, by Government, through sponsoring Departments, to develop and implement vacancy management schemes in consultation with appropriate trade unions, who should be consulted on the application of the Scheme in respect of any particular posts. Schemes should provide that no new posts be created except where an existing employing authority can demonstrate an inescapable requirement for the post. Examples of new posts which might fall into this category include those required to ensure service delivery, where new responsibilities or requirements are
imposed by legislation or Government action, or in cases where there is exceptional stress and pressure of work on existing staff. Furthermore, all vacancies should be scrutinised and, if it can be demonstrated that a particular post must be filled, this should be achieved by an appropriate mechanism, including -

- Temporary promotion
- Acting up
- Delaying a retirement
- Employing staff on fixed term contracts to expire before the handover to a new employing authority
- Secondments

Where staff accept temporary promotion, acting up or secondment etc there will be an underlying guarantee to the employee in respect of continuity of employment rights in their previous substantive post for the purposes of RPA implementation.

Decisions on creating new posts or filling vacancies should be fully documented.

If an existing employing authority concludes that none of the arrangements referred to above is practicable, it should then seek to fill the post through the redeployment of an officer who is affected by the Review of Public Administration, who may be employed in another body, and who wishes to take up a post with the organisation in which the vacancy occurs. When determining the constitution of the selection pool, employing authorities should take into consideration the relevant equality monitoring data.

To facilitate these arrangements, existing employing authorities should collaborate in filling vacancies across the affected bodies to ensure staff have an opportunity to apply for such vacancies as might arise. One option might be to create a clearing mechanism. Circumstances will dictate the detailed arrangements, although decisions should be taken on a case by case basis.

Throughout the RPA implementation process, employing authorities should ensure that appropriate training measures are in place to support staff directly affected by this recommendation.

Existing employing authorities should be required, by Government, through sponsoring Departments, to introduce, and apply, monitoring and review arrangements in relation to policies on managing vacancies. In keeping with the Public Service Commission’s recommendations in relation to effective communications, reports on how arrangements for managing vacancies effectively are working in practice should also be provided to staff and local trade unions and/or staff representatives on a regular basis.

SID McDOWELL
Chairman
Public Service Commission
19 July 2006
FILLING OF VACANCIES

To comply with the Policy on the Control of Vacancies and the advice from the Public Service Commission, all vacancies must be scrutinised to determine whether they must be filled. Section A of this form should be completed detailing reasons why the post should be filled.

SECTION A

Department
Section/Unit of Management
Location
Post Designation
Grade

Justification for filling the post:

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<th>Justification</th>
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SECTION B

Where it is agreed that a post should be filled, this will be on a temporary basis for a maximum period up to 31 March 2008 which may be subject to extension by the ESA or the LA as appropriate.

Please indicate which of the following methods will be used to fill the post

<table>
<thead>
<tr>
<th>Method - Internal</th>
<th>Tick as appropriate</th>
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<tbody>
<tr>
<td>Delaying Retirement</td>
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<td>Temporary Promotion</td>
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<tr>
<td>Temporary ‘Acting Up’</td>
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<td>Appointment on a temporary basis</td>
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<td>Appointment on a fixed term basis</td>
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<td>Appointment on a secondment basis</td>
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<table>
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<th>Method - External*</th>
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<tr>
<td>Trawl Across the Education Sector affected groups</td>
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<tr>
<td>Restricted Public Advertisement to those affected by RPA</td>
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</tr>
<tr>
<td>Open Public Advertisement</td>
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* If it is considered necessary to use the external method, the employing authority should consult with the appropriate trade unions
SECTION C

At the outset of a potential redundancy situation, a legal obligation exists to consider strategies to avoid redundancies, rather than being confined to the period after an employee has been selected for redundancy. This policy has been developed to ensure that all reasonable steps are taken to safeguard and secure the employment of existing staff within the Education Sector.

Vacancy control measures, by the very nature, will restrict the pool of potential candidates for job opportunities. Any restriction to an applicant pool has the potential to give rise to a claim of indirect discrimination. It is arguable that in such circumstances the balance is more heavily weighted in favour of the rights of existing staff who are losing jobs as compared to those candidates in under-represented groups (who may or may not be in employment) in the wider pool losing potential opportunities for employment.

But in reaching such a decision it is important to:

1. ensure that any such restriction and the objective(s) to be achieved by that restriction are clearly documented;
2. the employer must consider the potential discriminatory effect of a decision to restrict an applicant pool i.e. the extent of the particular (if any) disadvantage caused. (It is important that monitoring data is used to inform this part of the process);
3. in weighing up the information available, it is important to demonstrate that the employer has considered other ways of achieving the objective and is in a position, if these have a lesser discriminatory effect, to explain why such means were not adopted.

Following consideration of all the relevant information, including monitoring data, as an employer are you satisfied that the method of filling this vacancy on a temporary basis is a proportionate means of achieving a legitimate aim, namely the protection of employment rights e.g. avoidance of redundancies.

Yes ☐ No ☐

If no, it is important to specify what actions you proposed to take to balance the competing interests of staff potentially losing jobs against the wider potential pool of job applicants.

Proposed Action:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

AUTHORISATION

Signed: ___________________________ Head of Department/Designated Senior Officer

Contact Officer ___________________________ Telephone Extension

Agreed/Not Agreed ___________________________ Head of Human Resources*

(*For each organisation to determine)

When completed please return to: The Head of Human Resources

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
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7
Justification for filling the post (continued):
ARRANGEMENTS FOR THE TRAWLING OF VACANCIES

STAGE 1 - INTERNAL TRAWL

Where approval has been granted for a vacancy to be filled in accordance with paragraphs 4 and 5 of this policy, the current administrative arrangements which exist within employing authorities for the trawl/circulation of vacancies within the authority should continue to be implemented.

STAGE 2 - TRAWL ACROSS THE EDUCATION SECTOR AFFECTED GROUPS

The vacancy should be trawled across the affected groups within the Education Sector.

STAGE 3 - RESTRICTED PUBLIC ADVERTISEMENT TO THOSE IN THE RPA AFFECTED GROUPS

Where it has been clearly demonstrated by the employing authority that the post cannot be filled at Stages 1 or 2 referred to above, the authority should then seek to fill the post through the redeployment of an officer who is employed in an RPA affected group and who wishes to take up a post with the organisation in which the vacancy occurs.

The procedure will be a restricted public advertisement to those in the RPA affected groups.

STAGE 4 - OPEN PUBLIC ADVERTISEMENT
(To be applied only in exceptional circumstances)

Where it has not been possible to fill a vacancy using the processes outlined in Stages 1-3, an open public advertisement may be used.