

PERTH AND KINROSS COUNCIL

Lifelong Learning Committee – 29 October 2008

PROCESS FOR APPOINTMENT OF TEACHERS TO POSTS IN DENOMINATIONAL SCHOOLS

Report by Executive Director (Education and Children's Services)

ABSTRACT

This report outlines recommendations to introduce a revised process for the appointment of teachers to posts in denominational schools

1 RECOMMENDATIONS

It is recommended that the Committee:

- (i) approves the process for appointment of teachers to posts in denominational schools; and
- (ii) instructs the Executive Director (Education & Children's Services) to implement the revised process.

2 BACKGROUND

- 2.1 Re-enacting earlier legislation, the Education (Scotland) Act 1980, provides that a teacher appointed to any post in a denominational school requires to be approved as regards his/her religious belief and character by the relevant church or denominational body. The only denominational schools managed by Perth & Kinross Council are those maintained in the interests of the Roman Catholic Church and Scottish Episcopal Church.
- 2.2 In 2003 new legislation was enacted - the Employment Equality (Religion or Belief) Regulations 2003. This made it unlawful for an employer to discriminate on the grounds of a person's religion or belief.
- 2.3 The enactment of this legislation set up a tension between the requirements of the Education (Scotland) Act 1980 for the Churches to approve appointments to denominational schools and the responsibilities of Councils in terms of compliance with discrimination legislation.
- 2.4 This tension was tested in late 2004 when Glasgow City Council was taken to an Employment Tribunal by one of its teachers, under the terms of the above Regulations. The basis of the claim was that the 2003 regulations should supercede the Education (Scotland) Act 1980.

- 2.5 The matter went to Employment Appeal Tribunal and the decision was issued in 2007. The judgement from the Appeal provided some clarity and in particular made clear that:
- there are risks involved in adopting a local "agreement" on a system of approval for teachers;
 - there was no "genuine occupational requirement" for a Principal Teacher of Pastoral Care to be a Roman Catholic;
 - appointment to all teaching posts in Roman Catholic schools requires the approval of the Roman Catholic Church;
 - the local authority is not required to seek to follow or further any particular religious ethos, but is obliged to "facilitate" denominational education.
- 2.6 In the light of the above it was considered appropriate for Education & Children's Services to review its recruitment and selection procedures for all teaching posts in denominational schools. The revised procedure has been produced following this review and is attached as Appendix 1.

3 PROPOSALS

- 3.1 Following the review, and taking advice from Senior Counsel, the existing procedure for the appointment of teachers to denominational schools has been revised.
- 3.2 The proposed revised procedure has been based on the following principles:
- Any recruitment procedure should be based on fair selection methods and therefore the Council's standard procedures for recruitment and selection of teaching posts will be followed.
 - It will be made clear at each stage in the process, from initial advertisement onwards, that the successful applicant will require to obtain the approval of the appropriate Church. This allows all applicants to be clear about the requirement and to be able to seek such approval at an early stage should they so wish.
 - Appointment to all fixed term and permanent teaching posts in denominational schools require the approval of the appropriate Church. The placement of supply or probationer teachers will be excluded from requiring church approval on the grounds that they are placements, not appointments.
 - The selection of a candidate suitable for appointment for the post will be the responsibility of the Council.

- Once a suitable candidate has been identified they will be offered the post subject to various checks, such as evidence of qualifications, Enhanced Disclosure and Church approval. If they cannot demonstrate Church approval the job offer will be withdrawn. If another candidate (or candidates) has been identified as suitable for appointment that person will be offered the post, also subject to the same conditions.
- The matter of approval is for the appropriate Church to determine and is not a matter for the Council. Any candidate who wishes to question the decision on approval will need to pursue this with the Church.

3.3 A copy of the proposed revised procedure is attached at Appendix 1.

4 CONSULTATION

The Executive Director (Corporate Services), Head of Democratic Services, Head of Legal Services, the Roman Catholic Church, and the Joint Negotiating Committee for Teaching Staff have been consulted in the preparation of this report.

5 RESOURCE IMPLICATIONS

There will be no financial implications arising from the introduction of these revised procedures.

6 COUNCIL CORPORATE PLAN OBJECTIVES 2006-2010

6.1 This report takes forward the Service's Statement of Intent and links to Business Management and Improvement Plan Objectives:

- Keep individuals safe and protected
- Raise standards of performance and achievement
- Develop the range and quality learning experiences for all

The report also links to the Education & Children's Services Policy Framework in respect of the following key policy areas:

- Inclusion and Equality
- Integrated Working
- Leadership and Management

6.2 The Council's Corporate Plan 2006-2010 lays out five Objectives which provide clear strategic direction, inform decisions at a corporate and service level and shape resources allocation. They are as follows:

- A Safe, Secure and Welcoming Environment
- Healthy, Caring Communities
- A Prosperous, Sustainable and Inclusive Economy
- Educated, Responsible and Informed Citizens
- Confident, Active and Inclusive Communities

This proposal relates to the strategic priority of

- A Safe, Secure and Welcoming Environment

7 EQUALITIES ASSESSMENT

The process presented in this report was considered under the Corporate Equalities Assessment Framework and the determination was made that the items summarised in this report do not require further assessment as they meet the requirements of employment and equalities law.

8 STRATEGIC ENVIRONMENTAL ASSESSMENT

The process presented in this report was considered under the Environmental Assessment (Scotland) Act 2005 and the determination was made that the items summarised in this report do not require further action as they do not qualify as a plan, programme or strategy as defined by the Act.

9 CONCLUSION

The approval of this report will ensure a consistency of approach for the appointment of teachers to posts in denominational schools that complies with current legal requirements.

JOHN FYFFE
Executive Director (Education and Children's Services)

Note: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.

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Appendices:**Appendix 1****Revised Process for the Appointment of Teachers to Posts in Denominational Schools**

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