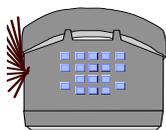


*Issue No. 1 of Reporting Year 2004/2005
(20 May 2004)
Office of The Ombudsman, Hong Kong*



*Direct Investigation into 2003 Priority Arrangements for
Surplus Teachers in Aided Primary Schools*

The executive summary of the investigation report is at **Annex A**.



Enquiries

For press enquiries, please contact Ms Kathleen CHAN, Senior External Relations Officer at 2629 0565.

Office of The Ombudsman, Hong Kong
20 May 2004

Issue No.1 of 2004/05

Executive Summary of Investigation Report on 2003 Priority Arrangements for Surplus Teachers in Aided Primary Schools

Introduction

With the steady decline in birth rate in Hong Kong, enrolment of children of school age has decreased in recent years, leading to a reduction in the number of classes in aided primary schools. This, in turn, has resulted in a significant surplus of teachers. In early 2003, the Education and Manpower Bureau (EMB) introduced arrangements ("the 2003 priority appointment") to assist teachers who became surplus in the school year 2003/04.

2. The arrangements impacted on the stakeholders in the education field: serving teachers were concerned about losing their jobs; fresh graduates of teacher training institutions considered the arrangements unfair; schools were restricted in hiring teachers and ultimately students' education would be affected. As the trend for class reduction is anticipated to continue, the issue of surplus teachers will soon surface in secondary schools and in time possibly have implications for the tertiary sector. Against this background, The Ombudsman conducted a direct investigation under section 7(1)(a)(ii) of the Ombudsman Ordinance on EMB's 2003 priority arrangements to examine:

- EMB's implementation of the arrangements,
- their impact on the major stakeholders, and
- implications for the principle of school-based management.

History

3. Teachers in a school become surplus when student enrolment drops. This may be due to a general decline in birth rate within a particular district, migration to new towns and preferences of parents for schools.

4. To cope with the problem of surplus teachers, the then Education Department (ED) (whose functions were legally transferred to EMB on 28 February 2003) introduced placement service in 1975 and succeeded in placing all surplus teachers every year until 2002. For 2002, 59 of 375 surplus teachers could not be placed and ED then arranged for those unemployed to be "seconded to schools of major sponsoring bodies" to serve as supply teachers.

5. In November 2002, ED estimated that in 2003 there would be about 400 surplus teachers plus another 940 candidates (mostly fresh teaching graduates) competing for 850 jobs. The ED Directorate then reviewed the arrangements for surplus teachers and concluded, *inter alia*, that the placement service should be scaled down and there should be no "guaranteed placement". In January 2003, ED issued Circular Memorandum No. 17/2003 requesting schools to advise the department their projected enrolment for the coming school year. The circular also required all vacant teaching posts for the remaining school year be filled by temporary teachers. At the same time, ED started a series of consultation on the proposed arrangements with school sponsoring bodies, school councils, educational organisations and representatives of the profession.

2003 Arrangements

6. In March 2003, EMB issued Circular Memorandum No.45/2003, announcing the 2003 priority arrangements for surplus teachers. The circular required, *inter alia*, aided primary schools to identify their surplus teachers under a set of criteria based on the need of the school or on the principle of "last in, first out". It also required school sponsoring bodies to redeploy surplus teachers to fill vacancies in their schools. Furthermore, a "priority appointment" period up to early July 2003 was introduced, during which schools should offer appointments only to surplus teachers. EMB would also arrange group interviews in June 2003 to facilitate surplus teachers applying for jobs.

7. However, by the end of June 2003, 296 surplus teachers (out of 542) were still unemployed. After consulting the teaching profession, EMB extended the "priority appointment" period, stepped up efforts to encourage schools to fill vacancies with surplus teachers and organised "professional interviews" whereby panels of education experts interviewed those teachers and recommended suitable ones for interview by schools. 119 teachers secured a recommendation during the "professional interviews" and 45 found employment. For the remaining 74, EMB created a new category of posts and arranged for them to be appointed as "Special Supply Teachers" at 65% of his/her salary plus an allowance if the time they worked as a supply teacher exceeded 65% of the school days in any given month. The "priority appointment" period ended on 8 August 2003.

Concerns of Stakeholders

8. On the issue of surplus teachers, the Hong Kong Professional Teachers Union (PTU) maintained that Government should take care of teachers made redundant through no fault of their own. PTU referred to Appendix 16 of the Code of Aid for Primary Schools, which provided that the School Management Committees (SMC) could terminate the services of a teacher only for unsatisfactory performance despite warnings. PTU held that this did not apply to surplus teachers.

9. In this connection, we note contradicting provisions in the Code: while one section states that SMCs can terminate the services of a teacher by giving three months' notice, Appendix 16 lays down quite complex procedures to be observed strictly when terminating the appointment of a teacher.

10. Students of the Hong Kong Institute of Education (HKIED) considered the 2003 priority arrangements unfair and objected to EMB's extending the "priority appointment" period from July to August 2003.

11. School sponsoring bodies considered the arrangements a hindrance to their recruitment of teachers as they were repeatedly "encouraged" to consider candidates from the ranks of surplus teachers only and they could not appoint other candidates during the "priority appointment" period.

Impact of the Arrangements

12. When the 2003 priority arrangements eventually settled at the end of October 2003, the employment situation of surplus teachers was as follows:

Surplus teachers Appointed	As at 31.10.03	
	No.	%
As regular teachers	320	59.0
As temporary teachers	105	19.4
As Special Supply Teachers	74	13.7
Not appointed	43	7.9
Total	542	100.0

13. Statistics from HKIED showed that among the 632 graduates in 2003, nearly 80% managed to find teaching or teaching-related employment. However, only 59.8% of them were employed as full-time teachers, significantly fewer than the previous two years (88.9% for 2001 and 81.8% for 2002).

Employment of HKIED Graduates in 2001 - 2003

Year-end	Employment in Schools					Others (%)	Total (%)
	Full-time				Part-time (%)		
	Teacher (%)	Teaching Assistant (%)	Others (%)	<i>Sub-total</i> (%)			
2001	88.9	0.1	0.35	89.35	0.35	10.3	100
2002	81.8	0.6	1.1	83.5	3.4	13.1	100
2003	59.8	5.2	6.5	71.5	7.8	20.7	100

School-based Management

14. On identification of surplus teachers, EMB did leave the school authorities to decide on the selection criteria. However, on appointment of teachers, Circular Memorandum No. 45/2003 not only imposed a "priority appointment" period but schools were told that vacancies should first be filled by surplus teachers. This was contrary to Government's initiative on school-based management, promoted since the 1990s. EMB had attempted to strike a balance between assisting

surplus teachers and facilitating schools to recruit suitable teachers. However, as events unfolded, this proved to be a balance tilted towards the surplus teachers.

Findings and Observations

Effectiveness

15. With 92.1% of the surplus teachers securing teaching employment, the arrangements may be said to have substantively achieved the objective to "assist those experienced and committed surplus teachers to remain in the profession", even though only with difficulty and prodding from EMB.

16. The widespread application of the "last in, first out" principle in identifying surplus teachers did retain mostly the longer serving, more experienced teachers but there is no assurance that they performed better or were more committed than those made redundant.

Fairness to fresh graduates

17. Although about 80% of the HKIEd fresh graduates were able to secure employment eventually in schools, less than 60% worked as regular teachers. This is significantly lower than the previous two years.

18. As aided primary schools are the major employers for HKIEd graduates, one can envisage the graduates' anxiety and frustration during the "priority appointment" period when aided primary schools just could not and would not consider their applications. Evidently, EMB had paid little attention to the interests of the HKIEd fresh graduates in the 2003 priority arrangements.

Fairness to schools

19. The 2003 priority arrangements unquestionably imposed restrictions on schools in their employment of teachers, contrary to the spirit of school-based management, particularly when the employment is a contract between the teacher and the school, not with Government. The arrangements left schools with very little time to recruit from other than surplus teachers. This caused inconvenience to schools and did not give new teachers much time to prepare their lessons. Ultimately, it would be the students who suffer.

Fairness to teachers

20. We have been informed that the annual appraisal of teachers in many schools was mainly for the purpose of staff development and could not be used as a basis for identifying surplus teachers. A teacher's performance was, therefore, seldom taken into account in identifying surplus teachers and younger but brighter teachers might be lost to the students. The "last in, first out" principle for selection of surplus teachers is simpler and expedient, but unsound. A proper performance appraisal system is essential for retention of competent teachers and to the proper development of the teaching profession.

21. On the tenure of teachers, the Department of Justice advised that teachers of aided schools do not have "permanent" employment as perceived by many. On that basis, EMB could have handled the issue of surplus teachers with a better balance of the interests of all parties concerned.

However, apparently under pressure from the teaching profession, EMB changed course and the arrangements subsequently implemented slanted in favour of serving teachers.

Fairness to students

22. As the ability of teachers was not taken into account in identifying surplus teachers, the interests of students would be affected. The need for recently trained teachers with new knowledge, e.g. pastoral care and understanding of learning disabilities, is not met. The 2003 priority arrangements caused disruption to school administration which in turn affected school programmes. EMB had not given due regard for the interests of the students.

Use of public funds

23. The employment of 74 surplus teachers as Special Supply Teachers from September 2003 to August 2004 is estimated to cost \$19M. However, had these teachers been employed simply as supply teachers, the cost would be \$9.32M. Thus, Special Supply Teachers cost an extra \$9.68M. We note that for the first six months of their employment, 21% of the Special Supply Teachers were paid at the basic salary (i.e. 65% of their salary as a regular teacher). In other words, they had worked as a supply teacher for 65% of the active school days, or less. This suggests a definite possibility of under-employment for some Special Supply Teachers. The creation of these new posts is, therefore, not value for public money.

Concluding Remarks

24. EMB's stated aim of the 2003 priority arrangements was to retain experienced and committed teachers in the profession. It seems that the arrangements had succeeded in keeping only the more experienced teachers but might have excluded some highly committed, but younger and less experienced, teachers. In reality, the arrangements aimed primarily to keep surplus teachers employed regardless of the performance of those retained. This may deter young people with good potential from taking up a career in teaching.

25. We do not question the need for EMB to play a part in resolving the surplus teacher issue. Government has a duty to ensure that the transition does not unduly disrupt school operations, to balance the interests of all stakeholders, to facilitate the retention and recruitment of quality teachers only and to guard against waste of public resources. While EMB should involve itself in matters at the macro level such as setting appropriate policies, it should not participate directly in detailed operations like "persuading" schools to take on certain types of candidates.

26. Using performance as a basis for setting priority in redundancy can be controversial but is a common practice in most trades and professions. If schools were to take up their management functions seriously, they should develop with assistance from EMB a proper performance appraisal system for their teachers. We believe that using performance-based criteria, rather than the "last in, first out" principle, to identify and select surplus teachers is fair to the teachers, the students, the schools and the fresh graduates in search of jobs. The 2003 priority arrangements were intended to give schools a free hand to identify surplus teachers. Regrettably, as it happened, many (may be even most) schools continued to adopt the "last in, first out" principle and some felt "pressured" by EMB to recruit only surplus teachers during the "priority appointment" period. We consider that in keeping with the spirit and intent of school-based management, schools should have autonomy and exercise their freedom to recruit teachers.

27. EMB has, on its agenda, plans to review the Code of Aid for Primary Schools. We support this initiative, which will clarify the provisions relating to employment and termination of service of teachers.

28. For the longer term, we are concerned that appointment by seniority rather than by performance and professional excellence may impact on the education for our young, standards of teachers and development of the profession. More junior teachers may perceive their job opportunities as being blocked by those who surpass them only by seniority. At the same time, the teaching profession must equip itself, through re-training, refresher and injection of new blood, in order to face the constant changing requirements in education and maintain the professionalism of teachers.

29. As the problem of surplus teachers will inevitably progress to secondary schools, it is imperative that Government, in consultation with school sponsoring bodies and the teaching profession, take a broader view of all the issues and develop a realistic manpower plan for the school sector.

30. Government and school sponsoring bodies, principals and the teaching profession, teacher training institutions and parents of students are all partners in the education of our young. Each party should critically re-examine the respective role and responsibilities for the development and preparation of young Hong Kong for the challenges in life and contribution to the community.

Comments from EMB

31. EMB contended that although 21% of the Special Supply Teachers were on basic salary, it has no relevance to their taking up supply teacher duties for less than 65% of active school days in any month. Moreover they are full-time teachers who have to take up other education related duties when not engaged in teaching. We do not accept this statement as by definition and nomenclature a Special Supply Teacher is intended to perform, in the main, the duties of a supply teacher. The fact that 21% of them were drawing basic salary cannot rule out the possibility that some of them were working less than 65% of the time as supply teachers.

32. EMB maintained that the extra cost of \$9.68M for Special Supply Teachers was “a small price” to pay for maintaining stability of the teaching profession. Again, we do not agree with this view. In times of financial stringencies when the Civil Service is facing budget cuts and recruitment freeze, we question if such extra cost is just “a small price”.

33. In addition to the above two points, EMB also provided a general statement of its position on the issue of surplus teachers. Our comments on EMB's general statement are as follows:

- (a) We welcome EMB's acceptance that it should not involve itself in the recruitment process of surplus teachers but we have reservations on its retention of the arrangements for Special Supply Teachers albeit as "a last resort".
- (b) EMB maintained that it would not be possible to project accurately future supply and demand of teachers or change in student population and that it would not be in the long-term interest of education to reduce the number of teacher places. We appreciate the difficulties in making accurate projections. However, we consider it imperative for Government to plan and periodically review the community's manpower needs. We emphasise that we have not suggested reducing the number

of teacher places. It is our view that EMB, schools and teaching profession should prepare themselves through retraining, refresher and injection of new blood in order to meet the challenge of changing needs in education.

34. After careful consideration of the comments from EMB, The Ombudsman remains of the view that our suggestions should stand. We will monitor the progress of EMB's follow-up action on the following issues:

- EMB to re-examine arrangements for surplus teachers
- EMB to focus on matters at macro level
- Schools to develop proper performance appraisal system with advice and guidance from EMB
- Schools to practice school-based management properly
- Schools and the teaching profession to anticipate and adapt to change
- EMB to expedite review of Code of Aid
- EMB to develop a realistic manpower plan for the school sector; and
- EMB to review teacher training programme.

Office of The Ombudsman
May 2004