

MIDLANDS PROVINCE



GUIDELINES AND RECOMMENDATIONS

FOR THE HANDOVER OF RURAL DAY SCHOOLS
FROM COUNCILS TO CHURCHES
OR OTHER RESPONSIBLE AUTHORITIES

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1. BACKGROUND AND PURPOSE

Before independence, most rural schools that provided education for black students were developed and run by churches through missionary centres. The mission schools only received a fraction of the grants given to white schools by the colonial government. In the 1970s, the Rhodesian regime withdrew financial support from mission schools and promoted the handover of rural day schools to local councils, which often lacked a sufficient revenue base and therefore struggled to fulfil their mandate to provide education for black students².

After independence, the Zimbabwean Government addressed the challenges emanating from a racially segregated education system by launching its Education for All policy. The Government declared the right to primary education and increased grants for the development of council schools. Parents and communities often supported local school development through voluntary work and provision of materials.

In the 1990s, the Government decentralized education functions and the school authorities and parent communities were expected to take responsibility for the school development (Statutory Instrument 87 of 1992). However, in the context of economic challenges and a decreasing revenue base in the 2000s, some Rural District Councils experienced challenges in supporting local rural day schools adequately and invited interested churches to take over their responsibilities for some of the local council schools.

In some instances, the handover of schools from councils to churches has led to challenges and disagreements between the new school authorities on the one side, and school employees, parents, communities and local authorities on the other side. The current legislative and policy framework for the handover and re-registration of council schools is guided by the Education Act and various circulars, directives and council by-laws. However, the present legislative and policy framework does not provide specific guidelines on how to facilitate mutual agreements between all stakeholders affected by the handover and has gaps in terms of the following:

- No guidelines on consultations and negotiations to facilitate mutual agreements and community consent.
- No guidelines on rights, responsibilities, terms and conditions to be considered for school handovers.
- No provisions to protect the rights and interests of students, parents, school employees and local communities.
- No mechanisms to monitor the quality of education provided by the new school authorities.

The purpose of the following guidelines and recommendations is to address the identified gaps and to guide local authorities in the Midlands Province, who are intending to handover council schools.

This document is the result of extensive consultations and dialogues that have taken place in the Midlands Province from 2016 until 2018 and involved local communities affected by council school handover, local authorities at district and provincial levels, church representatives, teachers associations, the Ministry of Primary and Secondary Education and the Public Service Commission. As such, it represents views and opinions of this wide spectrum of the Midlands Province population.

¹ Shizha, E., & Kariwo, M. T. 2011: Education and Development in Zimbabwe A Social, Political and Economic Analysis, Rotterdam, p. 17

² Masuku, E. 2010: School principals' experience of the decentralization policy in Zimbabwe, Stellenbosch, p. 49

The following guidelines and recommendations are the result of these processes and were finalized by a provincial working group, which consisted of the Provincial Administration, District Administrators, Executive Officers Planning (RDCs) and community representatives from the eight rural districts. In July, the document was launched by the Provincial Administration, signed by the working group members and presented to government officials and stakeholders from the Midlands Province. The guidelines shall be adopted as best practice across the province and shared with national level policy makers.

The processes have been supported by the Centre for Conflict Management and Transformation, a Zimbabwean nongovernmental organization that works to transform the ways in which societies deal with conflict – away from adversarial approaches and towards collaborative problem solving.

2. DEFINITIONS AND GUIDING PRINCIPLES

Responsible authority means the person, body or organization responsible for the establishment and management of the school. *Council school handover* refers to the transfer of the responsible authority for a certain school from a Rural District Council to a church or any other applicable private institution and organisation registered accordingly. The change of the responsible authority involves the transfer of rights and responsibilities and may include the handover and takeover of certain assets. *School handover agreements* shall outline the terms and conditions stipulated by the negotiation parties to the handover of council schools. *Procedures for school handover agreements* refer to various actions recommended for facilitation of mutual agreements and community consent. *Elements of school handover agreements* refer to various regulations recommended as part of an agreement.

2.1 Balance of interests

Both the responsible authority handing over a council school and the responsible authority taking over a council school, should be interested in school development and provision of quality education. Any other interests shall be limited by the transferred rights and responsibilities and the terms and conditions agreed upon, which shall also protect the rights and interests of affected students, parents, school employees and local communities.

2.2 Flexibility

Within reasonable limits, local authorities should be flexible enough to assess and negotiate terms and conditions for school handovers beyond legal requirements, since it is difficult for lawmakers to foresee all special scenarios.

2.3 Fairness and transparency

Consultations, negotiations and agreements concerning council school handovers should involve all parties that hold a stake in the development of the local school. Negotiations should be based on an open exchange of information and equal negotiation powers.

3. PROCEDURES FOR SCHOOL HANDOVER AGREEMENTS

3.1 Public notice

Local authorities entering negotiations to handover a council school shall give sufficient notice to the affected stakeholders and communities. The School Development Committee and the school head shall be furnished with a written notification of the local authorities' intent to handover the school. The notification should be given not later than one year in advance of the intended handover and provide the following information and instructions:

- Timeline for assessments and inspections of the school (not exceeding three months),
- Timeline for negotiations and consultations (at least six months),
- Expected date of the school handover,
- Instructions to the School Development Committee and/or school head to present the notice to a public school meeting comprising of school employees, parents, and any other interested community members,
- Instructions to the School Development Committee and/or school head to display a copy of the notice at the school grounds.

3.2 Investigations, assessments and inspections

Local authorities entering negotiations to handover a council school must clearly establish the current ownership of all physical infrastructure, assets and equipment pertaining to the school. This includes ownership of title deeds to land on which the school stands and all buildings on the land. The local authorities should produce a layout plan with regards to the boundaries of the school and confirm that the school fulfils certain requirements as to its facilities for registration in compliance with P.Circular 73 of 1991. In addition, local authorities should carry out the following investigations:

- to outline why the handover of the school is necessary and/or beneficial,
- to establish school debts and outstanding payments of the current responsible authority,
- to establish and audit the legal status and financial capacity of the responsible authority intending to take over the school (with regards to churches traceable references and recommendation letters should be requested from reputable church bodies, e.g. Association of Church Education Secretaries),
- to request detailed school development plans from the responsible authority intending to take over the school,
- to validate any claims of previous ownership and development of the school by the responsible authority intending to take over the school, and to specify such claims in terms of land, infrastructure, assets and equipment pertaining to the schools (preference should be given to proposals by responsible authorities, who contributed to the school development in the past).

The investigations should be supported by baseline assessments and inspections to gather relevant information in terms of the school development and community relations of the school, e.g.:

- School infrastructure, assets and equipment etc.,
- School development levies and fees in the last 3 years,
- Number of school employees and student enrolment in the last 3 years,
- Pass rates in the last 3 years,
- Specific school development needs in terms of infrastructure, equipment, learning material etc.,
- Utilization of school facilities by the community for social, cultural or any other non-educational activities,
- Main religious affiliations and cultural practices of students and surrounding communities to ensure compatibility with the responsible authority intending to take over the school (if the responsible authority intending to take over the school is a church),
- Distance to the nearest other schools,
- Any other information deemed relevant to the handover.

The investigation, assessments and inspections should be carried out by the Ministry of Primary and Secondary Education through the District School Inspector in consultation with the School Development Committee, school head and any other relevant stakeholders. A report should be produced by the District School Inspector and shared with the School Development Committee for validation. The School Development Committee should have the opportunity to appeal the findings within a specified timeframe. The final report should be shared with all relevant stakeholders and inform the negotiations.

3.3 Negotiations, consultations and agreements

Negotiations for council school handovers should involve the following parties:

- The local authority intending to hand over a school,
- The responsible authority intending to take over the school,
- School Development Committee representatives, school employees' representatives, traditional leaders and any other relevant community stakeholders.

Negotiations and draft agreements should be based on information gathered through investigations, assessments, inspections and consultations and cover the following main issues:

- School maintenance and development (cf. 4.1),
- School policies and governance (cf. 4.2),
- Monitoring of compliance and quality of education (cf. 4.3)

All rights, responsibilities, terms, conditions and plans must be clearly spelled out in a written draft agreement approved by all the involved parties. Negotiations should be facilitated by the Ministry of Primary and Secondary Education through the District School Inspector.

The draft agreement shall be presented by the negotiation parties to a special general school assembly, comprising of the School Development Committee, school employees, parents, and any other relevant community stakeholders. The negotiation parties should provide assistance, including support to the poor and illiterate, so that all members of the assembly can effectively participate and give feedback. The following points should be clearly spelled out and explained:

- Rights and responsibilities of the prospective new school authorities,
- Changes to school policies and curriculum affecting teachers, students and communities,
- Monitoring mechanisms to ensure compliance and quality of education.

Based on the feedback of the assembly, the draft agreement may have to be revised and changes agreed upon by all negotiation parties. Finally, the general school assembly shall vote on the agreement, whereby

- The negotiation parties shall proceed with the draft agreement, if a qualified majority (2/3) votes for the agreement,
- The negotiation parties shall abandon the draft agreement and the negotiations, if a qualified majority (2/3) votes against the agreement,
- The negotiation parties may resume negotiations, if no qualified majority (2/3) can be found.

Any draft agreement approved by the negotiating parties and a qualified majority of the general school assembly, shall be formally adopted as Memorandum of Understanding between the involved parties and needs to find the support of a full council resolution. The ratified Memorandum of Understanding shall become part of the documents submitted with the application for re-registration and change of responsible authority of the school to the Ministry of Primary and Secondary Education. The handover may take effect, after the application has been granted.

4. ELEMENTS OF SCHOOL HANDOVER AGREEMENTS

4.1 School maintenance and development

The handover of council schools should facilitate the maintenance and development of the school. The following terms and conditions should be considered and negotiated to clarify roles and responsibilities:

- The handover should have a clear timeframe and could be limited to a certain time period, after which the agreement has to be reviewed.
- Maintenance and development of all physical infrastructure and school equipment handed over should become the responsibility of the new school authority, in collaboration with the School Development Committee.
- All physical infrastructure, assets and equipment pertaining to the school should be listed and cleared for the handover.
- A schedule of rents, levies, fees and rates payable by the new school authority to the Rural District Council should be defined. Such agreements should consider outstanding debts of the previous school authorities, contributions of the council and local communities to the school development, and validated claims by the new authorities of previous ownership and development of land, infrastructure, assets and equipment pertaining to the schools in question.
- For a period of up to three years, a minimum requirement of annual contributions by the new school authority to the school's budget for maintenance of infrastructure and equipment should be defined.
- For a period of up to three years, a minimum requirement of annual contributions by the new school authority to the school's budget for development of infrastructure, acquisition of equipment and learning materials could be defined (or/and a list of developments, equipment and learning materials to be provided within the period).
- Specific clauses could be considered to prevent misappropriation of funds and property.
- The new school fees structure should be clearly outlined and fees and levies could be capped for a specific timeframe (e.g. limited to the level of government schools).

4.2 School policies and governance

After taking over council schools, the new school authorities and churches in particular might have an interest in changing school policies based on religious or other grounds. Such changes should be negotiated and clearly outlined. In addition, adequate measures should be considered and negotiated to safeguard the rights of school employees as well as students with respect to Section 60 of the Constitution of Zimbabwe, in particular if no alternative educational facilities are available within the vicinity of the rural school in question:

- The provision of quality education in line with national legislative and policy frameworks should become the responsibility of the new school authority, in collaboration with the school employees recruited by the Public Service Commission.
- Policy changes on the basis of religious doctrines or other grounds should be outlined, including changes to the codes of conduct for school employees and students.
- Changes to the code of conduct for school employees should be in compliance with the standards of the Public Service Commission (Statutory Instrument 1 of 2000).
- The new school authorities should facilitate the redeployment of school employees who wish to seek employment elsewhere due to policy changes on the basis of religious doctrines or other grounds.
- School employees and students should have the option to be exempted from religious observances or restrictions they, their parents or legal guardians do not subscribe to.
- Additions to the curricular on the basis of religious doctrines or other grounds should be outlined and in compliance with the national curriculum.

- Students should have the option to study the standard national curriculum, if their parents or legal guardians do not subscribe to additions to the curricular on the basis of religious doctrine or other grounds.
- Policy changes should be outlined, which may affect the accessibility of the school for communal, social, cultural and any other non-educational activities.
- The intention to change the name of the school and the proposed new name should be stated.
- The intention to introduce different uniforms and the financial implications of this should be stated.
- Non-discriminatory enrolment and access to education for all local students of any religious or cultural affiliation should be obligatory, unless an alternative school accessible and acceptable to them is available within a specified distance.
- No special criteria for admission or selection of students (e.g. entrance exams) should restrict the access of local students to the school.
- Provisions should be considered to promote a balanced composition of the School Development Committee (e.g. equal number of members affiliated and not affiliated to the new school authority)

4.3 Monitoring of compliance and quality of education

To ensure compliance with the stipulated terms and conditions of the agreement and the provision of quality education after the handover of council schools, the following monitoring mechanisms should be considered and negotiated:

- For a period of three years after the transfer of rights and responsibilities, the Ministry of Primary and Secondary Education through the District School Inspector should actively monitor the compliance of the management of the school with the stipulated terms and conditions of the agreement, in consultation with the Rural District Council, the School Development Committee and the school authority.
- For a period of three years after the transfer of rights and responsibilities, the Ministry of Primary and Secondary Education through the District School Inspector should actively monitor the adequacy of the quality of education provided by the school authority, e.g. based on pass rates or any other specific areas defined.
- After a period of three years, the Ministry of Primary and Secondary Education through the District School Inspector should inspect compliance of the management of the school with the stipulated terms and conditions of the agreement, if requested by the School Development Committee.
- If the District School Inspector, in consultation with the school authority, Rural District Council, School Development Committee and the Provincial Education Director, concludes that terms and conditions of the agreement have been violated and the quality of education as provided by the school authority has substantially declined since the transfer, the Provincial Education Director may recommend that ownership, management and responsibility for the school be reverted to the Rural District Council.
- If the school authority wishes to change any stipulations of the agreement after the handover of the school, fresh negotiations have to commence following the same procedures as the original agreement.
- If the school authority wishes to terminate the agreement and dispose of its authority, the Provincial Education Director may recommend that ownership, management and responsibility for the school be reverted to the Rural District Council.
- If the school authority intends to sell the school or to convert or utilize the school for any educational or non-educational purposes that were not part of the agreement, the Provincial Education Director may recommend that ownership, management and responsibility for the school be reverted to the Rural District Council.

Office of the Provincial Administrator
Midlands Province
Ministry of Local Government, Public Works and National Housing
First Floor, Government Complex
10th Street
Gweru

Supported by:

Centre for Conflict Management and Transformation
28 Oxford Avenue
Newlands
P.O.Box A 1755
Avondale
Harare, Zimbabwe

Tel: +263 4 7460016, 776784
Email: info@ccmt.co.zw

www.ccmt.org.zw



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Conflict Management
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