Reference: DHET Function Shift Circular No 1/2014

To:
- The Heads of Provincial Education Departments;
- The Officials in the Provincial Education Departments likely to be affected by the Further Education and Training (FETC’s) and Adult Education and Training Centres (AETCs) function shift;
- Chairpersons of Council and Administrators of FET;
- Principals, Lecturers and Support Staff of FET Colleges;
- Principals and Staff of Public Adult Learning Centres (PALC);
- Employees represented by organised labour in both the General Public Service Sector Bargaining Council (GPSSBC) and the Education Labour Relations Council (ELRC).

PROGRESS MADE WITH THE FET AND AET FUNCTION SHIFT PROCESS AND THE WAY FORWARD

OBJECTIVE OF THE CIRCULAR:

The objective of this circular is to communicate progress made on the Function shift and provide information to officials affected by the transition. This circular is issued after consultation with members of the function shift National Implementation Task Team (NITT) comprising of NEHAWU, Popcru and PSA representation from the GPSSBC, CTU-ATU and SADTU representation at the ELRC, and the Department of Higher Education and Training officials (including some college principals).
1. BACKGROUND

Early in 2009, the President, by Proclamation, established two new Departments, namely, the Department of Basic Education (DBE) and the Department of Higher and Education and Training (DHET). The very first Council of Education Ministers (CEM) of the new administration requested that the Minister of Higher Education and Training (MHET) completely take over the functions of Further Education and Training (FET) Colleges and Adult Education and Training (AET) Centres.

The aspects that were to be pursued included:

a. Signing of Intergovernmental Protocols in terms of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005), between the MHET and the Members of the Executive Councils (MEC’s) for Education in Provinces, as well as between the Director-General (DG) of the DHET and the Heads of Department (HODs) in Provincial Education Departments (PEDs) in regards to the FET function shift. Similar protocols in respect of AET Centres are being consulted with Provincial Education Departments for signing.

b. Working towards a conditional grant so that the Programme 5 budgets for FET Colleges could be protected.

c. Secondment of Provincial FET Unit Personnel to the DHET by way of Intergovernmental Protocols.

d. Amendment of the FET Act, 2006 (Act No. 16 of 2006) to move the functions of public FET Colleges by way of the Further Education and Training Colleges Amendment Act, 2012 (Act No. 3 of 2012) and AET to the MHET by way of FET Colleges Amendment Act 2013 (Act No. 1 of 2013), by repealing the Adult Education and Training Act, 2000 and converting the AET Centres into Community Education and Training Colleges. This Act is not operative as yet.

e. Introducing, through the Department of Justice and Constitutional Development, an amendment to Schedule 4 of the Constitution making education, with the exception of education in schools, an exclusive national competency and no
longer a concurrent competency. Although the proposed amendment was approved by the Portfolio Committee of Justice, the amendment is not yet tabled in the National Assembly of Parliament.

f. The setting up of inter-governmental structures to manage the migration process.

In terms the FET Amendment Act, 2012 (Act No 1 of 2012), the Minister, in May 2012, shifted all the functions in the Act, except the transfer of posts related to FET Colleges in PED offices to the Minister of Higher Education and Training to the Department of Higher Education and Training. The timing of the transfer of the aforementioned posts was to be on a date still to be determined and published by notice in the Government Gazette once processes related to Section 197 of the Labour Relations Act, 1995 (Act No 66 of 1995) and processes that deal with finances linked to the distribution of the Conditional Grant, as contained in the Division of Revenue Act have been addressed.

In order to effectively manage the transition, the DHET in consultation with role players drafted the Migration Plan, Operational Plan and the Communication Plan for the FET function shift. In addition structures were established for consultation and management of the FET function shift process on a national and provincial level. These included the National Technical Task Team (NTTT) consisting of representatives of organised labour, Provincial FET Unit heads and DHET, as well as the Provincial Technical Task Team (PTTT) made up of FET Unit heads, representatives of organised labour and FET College Management.

To ensure that all the processes, procedures and time-lines that have a bearing on the human resources are properly and effectively communicated to the FET function shift affected staff in Provinces and Colleges, there has been a series of engagements with the stakeholders such as Principals, Provincial Directorates, College Councils and Organised Labour. In addition, in February 2013 FET College Staff information workshops were held nationally providing information on the function shift.
2. PROGRESS TO DATE

a. In March 2013 the Minister of Higher Education and Training issued a Commencement Notice in the Gazette No. 36322 giving effect to Section 11 and part of Section 12 of the Further Education and Training Colleges Amendment Act, 2012 (Act No. 3 of 2012). This meant that the management of the Principals and Deputy Principals is now managed through the Minister and Department of Higher Education and Training, although all the funding allocations related to these posts are still located with the Provincial Education Departments.

b. In order to ensure that the line management structures for FET College Principals remained intact, the secondment of Provincial FET Unit Staff was also effected on 1 April 2013 via Protocol Agreements signed between the Minister of Higher Education and Training and Provincial Members of Executive Councils (MECs).

c. To date FET College Principals and Deputy Principals nationally have received transfer letters confirming their transfer to the DHET. Secondment letters to PED FET Unit staff have also been prepared for handing over by the PED. It should be stressed that even though these officials are seconded they are still employees of the Provincial Education Departments. When the list of functions and posts are submitted by the Provincial Education Departments, the process of identifying persons who will be transferred with the posts will be finalised.

d. The management of the appointment and maintenance of the FET College Governance structures resides with the Minister and Department of Higher Education and Training. Where the terms of office of the Councils had expired, the Minister of Higher Education and Training has appointed new Councils and for those Councils whose terms of office subsequently expired, the process of appointing new councils is underway.

e. The DHET has appointed an Education Support Services provider to assist with the FET College “turn-around strategy” in Colleges located in two Provinces namely Limpopo and the Eastern Cape. A Project Manager based in the DHET
has been appointed to oversee the implementation of turn-around strategy for all Colleges.

f. The DHET has also appointed the South African Institute of Chartered Accountants (SAICA) to assist with Financial and Human Resource Management in FET Colleges. In terms of this initiative, Chief Financial Officers were appointed in all fifty Colleges, and twenty Human Resources General Managers, each assigned to provide support to two or three Colleges.

For the transfer of PALC and FET College staff to be effected, various processes must be undertaken that relate to the following management areas:

i. Human Resources & Labour Relations
ii. Finance
iii. Governance and Management
iv. Legal Services
v. Information Communication Technology and Infrastructure
vi. Assets and Liabilities
vii. Communications

Much information has been collected and consultation undertaken in regards to the FET College function shift and a similar process is underway in regards to the AET function shift in respect of the above seven management areas.

Progress related to the FET College function shift process is as follows in the following management areas:

i. Human Resources

The DHET along with the Further Education and Training Employer Organisation (FETCEO) as the New Employer and Old Employer respectively, have been working very closely with parties from Labour in both the Education Labour Relations Council (ELRC) and General Public Service Sectoral Bargaining Council (GPSSBC) FET Bargaining Units to agree on the process for the transfer of Lecturers and Support Staff.
The Collective Agreement regarding the transfer of Support Staff to the DHET has been agreed by parties and is currently awaiting signing and ratification by the GPSSBC. The Collective Agreement for the transfer of Lecturers to the DHET has been signed by all parties and ratified by the ELRC.

Once these Collective Agreements have been ratified in both bargaining units, a Government Gazette will be published to affect the transfer of Lecturers and Support Staff to the DHET.

In the meantime, to ensure transparency and effective implementation of these Collective Agreements, representatives from Labour and the DHET have jointly formed the National Implementation Task Team (NITT). The purpose of this team will be to oversee the transfer process for Lecturers and Support staff and assist with the roll out of staff information sessions nationally. A key component of the role of the NITT will also be to assist College Management in identifying staff for transfer to the DHET. Where staff are not identified for transfer to the DHET they will remain in the employ of the College Council.

The transfer process will be explained to staff fully in Staff information workshops once the Collective Agreements have been ratified. It is anticipated that this process will begin shortly.

In the meantime regular updates will be provided via bulletins issued by the DHET.

ii. Finance

The DHET has calculated the proposed FET administration budget and discussed it with PEDs and Provincial Treasuries in consultative sessions held on 20 September 2013. The DHET’s methodology for calculating the administration budget was shared in these sessions and submitted to the Technical Committee on Finance (TCF) on 01 October 2013. A joint committee led by National Treasury is currently liaising with Provinces to finalise the budget submissions for transfer to the DHET.
iii. Governance and Management

The appointment of College Councils nationally has been completed in four provinces and in the remaining five the process is at an advanced stage.

Much work has also been undertaken with Colleges in respect of support for the compilation of college strategic and operational plans for 2014.

iv. Legal Services

The Legal services unit has provided consistent advice and support related to the transfer of staff from Colleges to the DHET and ensured the publication of the relevant public notices and legislative amendments.

v. Information Communication Technology and Infrastructure

The DHET has applied for a virtual private network (VPN) line with the State Information Technology Agency (SITA) in respective provinces and is in the process of compiling a national list of software licensing agreements.

vi. Assets and Liabilities

Movable assets are being identified in all nine provinces to be transferred to the DHET, while plans are currently underway to secure office space for regional office staff.

3. CURRENT POSITION

a. Notwithstanding the progress made in regards to the FET function shift, due to the technical nature of the function shift process, there was a delay in the signing of all the protocols related to the FET College function shift. Almost all the FET Protocols were signed between November 2012 and the end of January 2013. There was further delay in the obtaining information for the process. The AET function shift process proceeding at a slower pace than the FET function shift, mainly due to it being dependent on a policy for Community Education and Training that has to be finalised.
b. Further, the Department of Higher Education and Training, National Treasury, Provincial Education Departments and Provincial Treasury Departments could not reach consensus, within the prevailing timeframes allowed in the budgeting process, on the amounts to be transferred with the full function shift to the DHET on 1 April 2014. As a result, the full FET and AET function shift, inclusive of funding, is now envisaged to come into effect on 1 April 2015.

c. The late finalisation of the FET function shift Collective agreements also impacted on the original intention to finalise the FET Function shift by 31 March 2014.

d. It should be noted that notwithstanding the progress made in terms of the function shift, the Provinces still bear responsibility and accountability in terms of the Constitution, the FET and AET Acts and Fiscal Framework, for the mandate. In regards to those functions shifted to the Minister and the Department in terms of the transition measures of the FET Act, the funds are still located in Provinces and therefore, while these functions are executed by the Minister and the Director-General of the Department of Higher Education and Training, the funding is still located in Provinces.

4. THE WAY AHEAD
To ensure the effective transfer of staff to the DHET:

a. The full function shift in regards to both FET and AET is envisaged to come into effect on 1 April 2015.

b. Various steering and driving structures have been established to achieve the 1 April 2015 target. These structures are:
   i. The HEDCOM sub-committee on function shift comprising of senior representatives of the Provincial Heads of Education, Provincial Treasuries, the Department of Basic Education, the National Treasury, the Financial and Fiscal Commission, the Auditor-General and the Department of Public Service and Administration. Unions will also be invited to be part of this structure. The meetings of this structure will provide inputs to the
HEDCOM which in turn will provide reports to the Higher Education and Training Council of Education Ministers.

ii. The Minister of Higher Education and Training will be keeping the Ministers of Finance, Basic Education and Public Service and Administration as well as the Chairperson and CEO of the FFC and the Auditor-General informed of the progress with the process.

iii. A National Technical Committee comprising of senior representatives from the Department of Basic Education, the National Treasury, the Financial and Fiscal Commission, the Auditor-General and the Department of Public Service and Administration has been convened.

5. CONCLUSION

We want to thank all those involved and affected by this process for their cooperation and also want to assure you that there will be regular communication in this regard.

Mr G F Qonde

Director-General: Department of Higher Education and Training

Date: 18/03/2014