

As term 4 unfolds.....



... time to take in latest MPB News

Spring has clearly arrived as has the final term of 2024, along with the second edition of the *MPB News*.

We're excited to share this next newsletter with you, following widespread positive reactions from stakeholders to our mid-year maiden quarterly bulletin.

We pledge to keep up a proactive and productive conversation with you on all matters of merit, workplace grievances and related training.

One way we will do this is by building on suggestions, comments and ideas you've already started sharing with us.

This will help ensure we engage with all teaching service stakeholders in a more responsive and targeted way.

So let's get started – enjoy what's on offer in this edition. Hopefully, you find something worth reflection, learn something new or look at things from a different angle.

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MPB News

Message from the Senior Chairperson



Business planning gets serious as term 4 progresses, providing the Merit Protection Boards with a timely opportunity to remind leaders across the education sector that, historically, this is also the busiest term for assorted grievances among school staff.

The term will most likely, again, present a range of challenges, with staff selection matters generating the most grievances as annual workforce planning and recruitment hits full speed for the new school year.

This workforce planning, along with the many related administrative decisions made by leaders over this time, may create disappointment for several school staff on issues such as leave requests, temporary transfers, higher duties assignments, teaching roles or locations, and other personal matters.

Given this possible reality is approaching once more, our Case Study in this edition of *MPB News* casts a timely spotlight on the particular subject of staff temporary transfers.

In doing so, it reveals this is another category to experience an obvious surge in grievances in term 4 annually.

By drawing early attention to the topic, we hope we might be able to forewarn education leaders and stakeholders, clarify latest policy expectations, and help busy educators avoid erring into grievance territory this time around.

Aside from this insight, we trust you will find other helpful material in this newsletter to reflect on. This includes latest data analysis, a closer look at personal grievances in the teaching service (as opposed to selection grievances), staff profiles and merit and equity training details.

Read on and enjoy once more.



We look forward to engaging in a positive dialogue with key teaching service stakeholders as our quarterly *MPB News* continues to evolve.

Steve Metcalfe

Senior Chairperson

Getting in touch...

You can get in touch with our office by phone or email. We're happy to hear from principals, school staff, peak body members or other agencies on all matters, serious and small – or even if you have a query you're unsure about.

Contact us anytime:  03 7022 0040  meritboards@education.vic.gov.au

IN PROFILE: Greg Donaghue

Manager & Registrar, MPB

Greg Donaghue cites three keys to his role at the MPB – impartiality, efficiency and integrity.

These have underpinned all interactions across the education sector and teaching service in his time as MPB Manager and Registrar, a position he has held for the past 18 months.

The Manager and Registrar role entails responsibility across the following areas:

- overseeing case management for grievance applications to the MPB and related Disciplinary Appeals Boards
- coordinating logistics for all types of hearings (selection & personal grievances; teaching service & VPS matters)
- leading a small office team and daily office functions.

Greg came into this position after about a decade in senior public service with the Department of Education where he managed business across legislation services, inter-governmental relations and the TAFE sector.

His previous experience includes 10 years' service with the secretariat of the Education Council under the Council of Australian Governments. Here, he coordinated commonwealth-state relations in education and early childhood development policy matters.

Greg began his working life practising law in the private sector before joining government in policy and project roles. He has completed a Masters in Public Administration and a Masters of Higher Education.

Given the depth of his background in building strong relations with stakeholders of the highest order, Greg is optimistic about the ongoing productive links the MPB can have across education and the teaching service.

'We're eager to be a positive partner when it comes to all matters of merit and equity, and it's something we're continually working on, said Greg, mindful that the tenets of impartiality, efficiency and integrity were integral to this vision.



The MPB and its Role

The Merit Protection Boards (MPB) is an independent statutory body, established under the *Education and Training Reform Act 2006*.

It is one of seven statutory bodies that work in conjunction with Victoria's Department of Education.

The MPB provides an independent mechanism to hear appeals and grievances for employees of the department, school councils, and associated education statutory authorities, ensuring the principles of merit and equity are upheld.

Appeals and grievances include:

- transfer and promotion
- grievances of a general personal nature (such as complaints, leave requests, transition from fixed-term to ongoing employment)
- incapacity
- grievances in relation to police record checks.

Through the hearing process, the Boards ensure all applicants receive fair and equitable treatment and that the principles of natural justice apply.

The MPB also conducts regular merit and equity training as it seeks to work productively with peak bodies and schools to create better-informed education workplaces, particularly with selection processes.

MPB News

MPB Data Analysis: Cases Spike in term 3

Latest data shows a sizeable jump in the number of new teaching service grievances lodged with the Merit Protection Boards (MPB) during term 3 for external resolution.

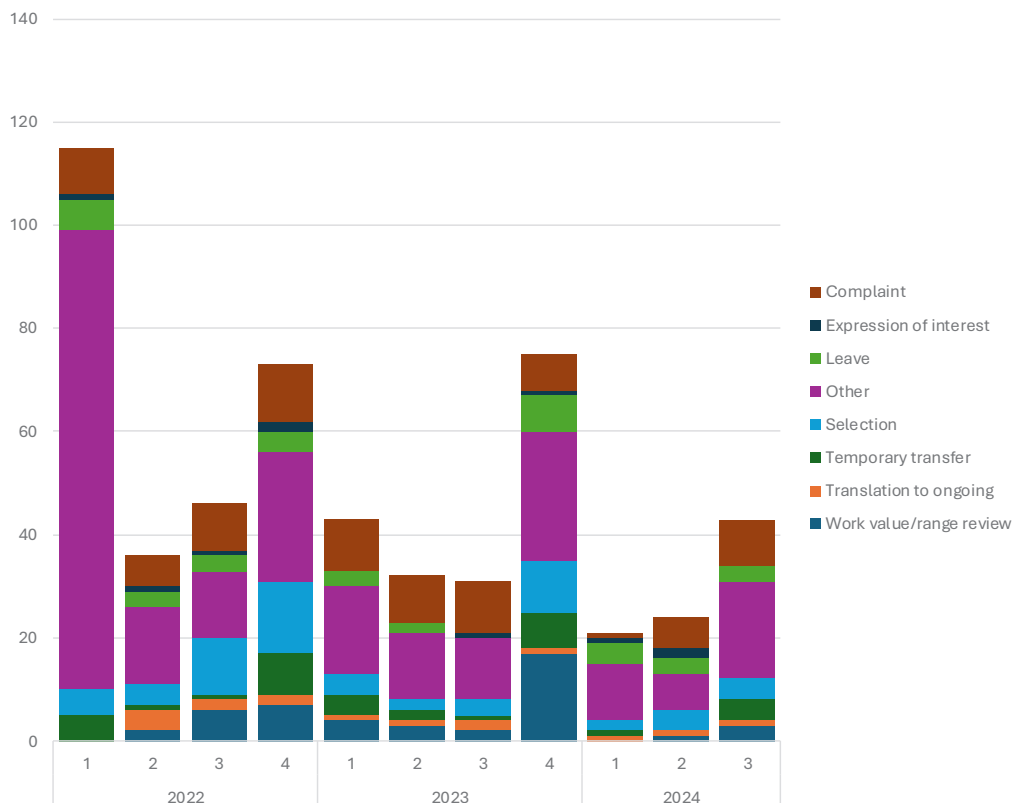
The figures (see graphs) reveal grievance claims from schools were up about 50 per cent compared to term 2 and a third higher on the same term last year.

Citing selection grievances and temporary transfer issues as the main cause for the increase, Boards registrar Greg Donaghue advised the spike was among the highest the MPB had encountered since the height of Covid19-related cases in early 2022.

'The MPB always has a regular caseload but there's been a marked increase in the volume of new cases for term 3 and this trend has occurred across the range of grievance types,' Mr Donaghue said.

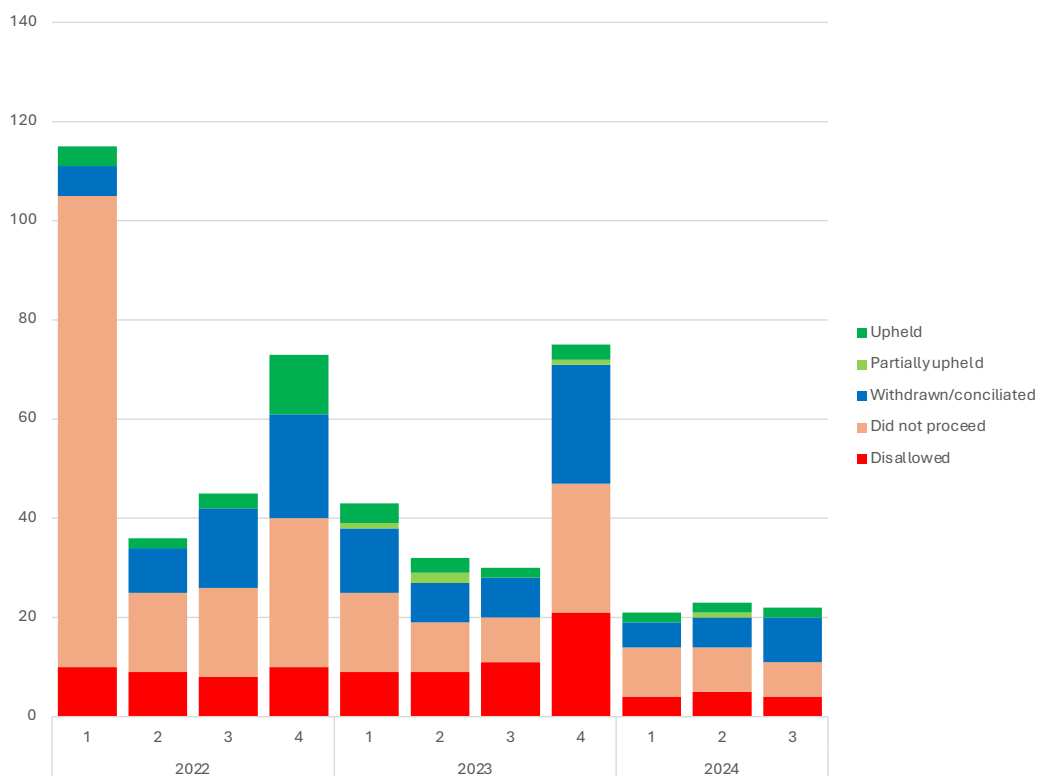
'It's been particularly noticeable in relation to selection grievances and temporary transfers, and to a lesser degree matters of complaint or allegations involving school staff,' he said.

Number of grievance types for teaching service grievances received per quarter





Grievance hearing outcomes and grievances withdrawn/conciliated for teaching service grievances received per quarter



MPB News

Case study: Temporary transfers - Gearing up for the season of temporary transfers

As the busiest period of the year for school recruitment approaches, we take a closer look at the topic of temporary transfers in the hope of helping principals avoid an annual grievance spike.

Temporary transfers are used to cover all sorts of teaching service roles across schools. They can apply at all levels, from education support or graduate teacher to specialist positions.

But before we go on, let's first be clear about what is meant by the term 'temporary transfer'.

In line with the Department of Education's Recruitment in Schools Guidelines, we're talking about those positions *'where an ongoing employee is the successful applicant for an advertised vacancy of 12 months or less'* in another school.

As it so happens, grievances related to temporary transfers spike each year in term 4 as this is when principals conduct most of their workforce planning and recruitment in readiness for the next school year. Several teaching staff may find a transfer request is knocked back as their principals grapple with the difficulties of backfilling.

This is why Merit Protection Boards Senior Chairperson Steve Metcalfe is eager to alert principals ahead of time this year, ensuring they are well aware of the changed policy stance on such transfers, arising from the 2022 Victorian Government Schools Agreement (VGSA).

'It's fair to say there's a changed view under the 2022 VGSA and, depending on the circumstances, temporary transfers can't simply be denied otherwise they'll be overturned down the line,' Mr Metcalfe said.

'Temporary transfers are supported by the Department and seen as a legitimate way for teaching staff to engage in a new opportunity for 12 months or less, gaining professional learning and growth while maintaining substantive security,' he explained.

Mr Metcalfe urged principals and stakeholders to take careful note of what the policy now stated.

'The current Agreement provides greater clarity on expectations, particularly for transfer requests spanning two school years. These transfers can't be unreasonably refused,' he said.

Updated details in the Recruitment Guidelines set out the following requirements:

Where an ongoing employee successfully applies for an advertised fixed-term position of 12 months or less at another school, the timing of release will be negotiated between the two principals.

Where there is no agreement on the timing, the following will apply:

- **release at the commencement of the following year**
- where release is in the same year, the base school principal may refuse an employee's release where the principal is unable to replace the employee before release
- where an ongoing employee's temporary transfer is to be extended (by appointment to an advertised vacancy or otherwise) the principal of the school must notify the base school principal by 1 November that the transfer is extended. If this does not occur, the employee will return to the base school unless otherwise agreed by the principals.

Mr Metcalfe said such policy made it 'abundantly clear' that principals needed to take the lead in negotiating local level solutions that also achieved a win-win outcome.

'In some cases, principals might even be able to negotiate a later start date in temporarily releasing a staff member. The best, workable decisions remain in their hands,' he said. *'But if a temporary transfer grievance finds its way from a teaching staff member to the MPB, and it meets criteria in the VGSA and Recruitment Guidelines, we'll have no option but to uphold it.'*

During term 4, the predominant focus would be on temporary transfer applications for release in 2025, Mr Metcalfe advised.

'If agreement can't be reached between respective principals, then the MPB starting position will reflect the Department's clear policy position that release will be at the start of the 2025 school year,' Mr Metcalfe said.

'Historically, we've seen a lot of such grievances in term 4, so we want to send a clear alert to all principals and stakeholders ahead of time in 2024. Hopefully, this will result in less stress for all parties.'

For full policy detail on temporary transfer of an ongoing employee, see the relevant section of the Recruitment Guidelines at: <https://www2.education.vic.gov.au/pal/recruitment-schools/policy-and-guidelines/employment-promotion-or-transfer>

Getting the Merit & Equity Role on a Selection Panel Right

We all know a compliant job selection panel needs at least one member trained in merit and equity, but what does this mean in practice?

Here, we delve deeper into what the merit and equity role looks like when it is performed well and the key things to be looking out for.

Is anyone here merit and equity trained? Has anyone done that training...? These are questions you usually hear thrown around as a selection panel is hastily being convened – be it in a school or Victorian public service settings.

One or two individuals are often quick to respond in the affirmative and, with little more probing, the panel may busily set about its work, starting with an assortment of applications.

But what then for the principles of merit and equity? If the panel is to proactively consider and then uphold these principles during the entire selection process, what should

a merit-trained panel member know and how should they perform their role to the fullest?

‘In essence, it’s about merit and equity trained individuals remaining vigilant during the selection process and continually prompting their fellow panel members along the way,’ according to Merit Protection Boards registrar Greg Donaghue.

‘In keeping a critical eye out and performing their role well, this person will be well aware there are essentially six key actions or themes that signify putting the principles of merit and equity into practice,’ Mr Donaghue explained.

In summary, these six action areas are:

ACTION AREA	KEY DETAILS
Ensuring compliant panel	Needs gender representation and at least one person trained by the MPB in the principles of merit & equity.
‘Conflict of interest’ & ‘Prior knowledge’	Ask questions of panel about any actual, prospective or perceived conflict. Mitigate, as necessary. Use any prior knowledge of an applicant to its fullest, documenting it just like a referee report. Don’t simply acknowledge prior knowledge – understand and use it in making a decision.
Clear, fair & consistent process	Be clear to all candidates about what the process will look like. Communicate & be consistent.
Interviews & referee checks align to key selection criteria	Everything in interviews, referee checks & other tasks should relate back to the job’s selection criteria. Remember, you want a merit-based outcome, which identifies the best candidate for your specific position.
Panel notes & documentation	Keep notes on assessment of all applications as well as the methodology used for short-listed candidates. Notes aid transparency & should be capable of review.
Selection report	Report contents are mandated by a Ministerial Order. All suitable applicants must be ranked in order of merit.

MPB News

Getting the Merit & Equity Role on a Selection Panel Right (cont.)



Did you know...?

The Department of Education's *Recruitment in Schools Guidelines* require schools to retain all selection documentation – including copies of short-listed applications, interview notes, referee comments and selection reports – for 10 years after confirmation of a selection decision.

This material remains the confidential property of the school and may be destroyed 10 years after the confirmation date. Unsuccessful applications that were not shortlisted can be destroyed 6 months after the recruitment process is finalised.

UPCOMING MERIT & EQUITY TRAINING

Thu 24 Oct	Time: 9.30 - 11am
Mon 11 Nov	Time: 9.30 - 11am
Delivery:	via Webex
To Register:	log onto eduPay, click 'MyLearnED' and search for 'Merit'

Getting the Merit & Equity Role on a Selection Panel Right (cont.)

Mr Donaghue said each panel had a chair, who was responsible for oversight and coordination of the entire panel process, while the merit and equity role was separate and could be led by any panel member.

The importance of this latter function was not just to focus on the recruitment, but to uphold the broad concepts that underpinned the six practical key action areas (see table on page 7), he said.

These concepts include: transparency; selection based on relative ability; fair and equitable treatment; objective decision-making free from bias and unlawful discrimination; clear and consistent communication and process.

‘So you can see, at the outset, the first step of the role is to ensure compliance on some fundamental issues, such as gender representation. These are legislated and non-negotiable so panels simply have to make the necessary moves to ensure they get these basics right,’ Mr Donaghue urged.

‘Then, the merit representative will prompt internal conversations to document conflicts, real and perceived, before drawing out maximum use of prior knowledge across any candidates,’ he said.

‘The Department of Education’s Recruitment in Schools Guidelines allow this prior knowledge to be discussed and documented during the selection panel’s processes just like a referee report, and they allow prior knowledge to become another valuable tool to aid good decision-making.’

On another front, Mr Donaghue explained that a constant, keen eye was needed to ensure the selection process remained clear, fair and consistent for all candidates, particularly once short-listing had occurred and interviews and related actions were underway.

‘Not only do you have to be clear to all candidates on what the process will look like for them, you have to consider if you are acting equitably – for example, giving them similar time if providing a prompt in advance or asking them to perform a set task,’ Mr Donaghue said.

‘This is fairness and equity in action.’

Critically, what follows is that all interview questions, referee checks and related tasks should link back to the key selection criteria. This is the frame for the vacant role and a merit-based approach,’ he added.

When it came to documenting the selection panel’s processes, Mr Donaghue said this was another area where the merit-trained person could lead the way with their ongoing vigilance.

‘It’s critical to show your workings. Keep notes relating to assessment of all applications and properly record the methodology used for comparative assessment across short-listed candidates interviewed and the referee follow-ups,’ he said.

‘Such notes uphold transparency, they should be capable of review, and they will definitely be called on in the case of an appeal.’

In terms of the final selection report, several key content items are mandated under Ministerial Order 1388. These include details on:

- the vacancy and all applicants
- selection panel members
- a comparative assessment on short-listed applicants
- reasons for not short-listing other applicants
- ranking of suitable applicants in order of merit

This report was another aspect that was ‘legislated and simply non-negotiable’, Mr Donaghue said.

‘Collectively, the panel should take responsibility to get the final paperwork right as it’s been known to turn a decision where a matter has gone to a grievance hearing,’ he said.

‘Put these steps into practice and you’ve gone a very long way to applying the principles of merit and equity.’

For more detail on MPB merit and equity training, visit:
<https://www.vic.gov.au/merit-protection-boards-training>

Personal Grievances in the Teaching Service

What constitutes a personal grievance for staff across Victoria's teaching service?

For school staff, a personal grievance may arise as a result of any action taken within a Department of Education work location which directly relates to that employee and directly affects that employee in their employment.

The employee must consider which of the following grounds apply to their matter:

- **breach of the *Education and Training Reform Act 2006* or Ministerial Order;**
- **infringement of the principles of merit and equity, or any personnel policy or guidelines issued by the Secretary; or**
- **is otherwise unreasonable.**

Examples of a personal grievance include range reviews, temporary transfers, leave-related matters, complaints, and translations from fixed-term to ongoing status.

MPB Senior Chairperson Steve Metcalfe revealed that a wide variety of personal grievances arose from the Victorian teaching service each year, and these accounted for about 80 per cent of the teaching service hearings conducted by the Boards.

From the range of topics covered and their inherent link with employee entitlements, daily responsibilities and remuneration, Mr Metcalfe said it was easy to see why personal grievances could become a big issue and find their way to the MPB.

'Pleasingly, it's clear to us that schools and leaders are largely getting their key decision-making processes right as our recent data shows several grievance categories have been on a downward trend, while grievances over leave remain steady,' he said.

'Issues over work value and range reviews have also settled down over 2024 as parties now appear to better understand the 2022 Victorian Government Schools Agreement,' he added.

Mr Metcalfe explained that personal grievances differed from a selection grievance. The latter involved an appeal lodged by an ongoing member of the teaching service in relation to the transfer or promotion of another ongoing staff member.

Such selection grievances could only be made against the provisional appointment of another ongoing member of the teaching service, Mr Metcalfe said.

It is worth noting that ongoing VPS employees are treated as teaching service employees for the purpose of lodging a selection grievance.

Who is eligible to lodge a grievance?

Teachers, principals, assistant principals, casual relief teachers and education support staff employed by the Department of Education, as well as school council employees in Department schools, may be able to lodge a grievance (selection or personal) in line with provisions of the applicable Act or Ministerial Order.

What are the time limits to lodge a grievance with the MPB?

There are set time limits for lodging a grievance claim. In the case of either a personal or selection grievance in the teaching service, the grievance must be lodged within 14 days of the action or decision, or notification of the action or decision, whichever is later.

Handy Hint ...

Teaching service staff should note the 14-day time limit to lodge a grievance application is strict.

Staff are always encouraged to first make efforts to resolve any matter with their principal, but at the same time they may begin preparing for a grievance application to ensure they meet the timeline.

Note, there is no obligation for staff to notify the principal if they proceed with either a personal or selection grievance. However, they may choose to do so on the basis of transparency and good communication.

The decision on the right approach remains a personal choice for the individual.



Merit
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BOARDS

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