

news and articles of special interest for  
headteachers and senior managers

## Welcome...

to 'HRfocus', our first termly publication providing a topical update on developments within the field of Education HR.

A little bit about **educateHR limited**: the company was established in 2010 by Gill Meeson, an experienced Schools HR Advisor. Gill and her associates, using their range of technical knowledge and relevant expertise, deliver reliable, pragmatic and timely advice (with particular emphasis on a proactive approach) to support and train all levels of school management in Education HR issues.

### Performance Management and Capability Policy Changes

educateHR has been informed that following the consultation which closed on 16 August 2011, the Department is hoping to publish the revised policy before Christmas 2011. Here are a few of the proposed changes:

- simpler regulations with fewer basic requirements
- closer link between PM and capability (one policy)
- processes and timescales that should be applied at each stage of review
- teachers to be assessed against revised professional standards
- relaxation of the 3 hour limit on observations
- removal of observation protocol
- appraisal review meeting – every term and formally at 12 months
- no requirement to refer to Teaching Agency.

Schools who wish to amend their current policies should consult with trade unions before implementation.

**During the Autumn Term educateHR will be delivering interactive workshops for line managers whose responsibilities include conducting appraisals. Topics include practical guidance on carrying out review meetings and setting objectives using the revised Professional Standards.**

**We are currently delivering bespoke in-house training sessions for individual schools in these areas. ■**

### New Professional Standards for Teachers

The review of existing teachers' professional standards is being conducted in two phases. The first phase has looked at QTS and Core Professional standards. A single set of standards has now been produced to replace the existing ones and incorporates those for 'behaviour and conduct'. These revised standards replace the current Code of Conduct and Practice for Registered Teachers and come into force on 1 September 2012 (existing standards apply until that date). *continued over »»*

### Point of Interest

The High Court has found banning pupils from wearing cornrow braids to be **racial discrimination** – the issues could also apply to the employment context (SG v St Gregory Catholic Science College).

### In this Issue:

- ✓ Performance Management and Capability Changes
- ✓ New Professional Standards for Teachers
- ✓ STPCD Pay Update 2011
- ✓ Teaching Agency – 2012
- ✓ Legal representation in Disciplinary Hearings
- ✓ Agency Workers Regulations 2010 – Supplementary guidance relating to agency supply teachers
- ✓ References – employer liability
- ✓ Recognising QTLS – Review of Vocational Education – the Wolf Report
- ✓ National Scholarship Scheme – closing date end of September 2011
- ✓ Additional Paternity Leave
- ✓ Policy Development – Social Media

The second phase of the Review is considering the remaining standards – Threshold, Excellent Teacher and Advanced Skills Teacher and is due out in the Autumn 2011.

Information on the standards and the published report can be found at: [www.education.gov.uk/schools/teachingandlearning/reviewofstandards](http://www.education.gov.uk/schools/teachingandlearning/reviewofstandards) ■

### Pay Update 2011 - STPCD

The two year pay freeze on the public sector workforce does not apply for those earning less than £21000 (see below). Normal progressions within pay bands continue to apply eg teachers are eligible for progression on Mainscale 1 – 6, but the scale point will have no inflationary increase.

**Unqualified Teachers** – where earnings are less than £21000 (points 1 – 3) they will receive a non-consolidated (pensionable) award of £250 (to be paid monthly in each of the 2 years). This is consistent with the government's policy of seeking to protect lower paid workers in the public sector. (A non-consolidated payment is not incorporated into regular salary scales.)

**Leadership** – high earning headteachers' pay for taking on additional responsibilities eg executive headship or consultancy will be capped at 25% beyond the top of the leadership scale (L43). There is provision for governors to agree to exceed this where there are "wholly exceptional circumstances". Those who want to award more will be subject to much closer scrutiny in their decision-making. A business case will have to be presented to the full governing body, and "external independent advice" must be sought in reaching a decision. ■

### Teaching Agency - 2012

The Teaching Agency is the new executive agency that will be responsible for ensuring the supply and regulation of teachers. It will be operational from April 2012 and, subject to the passage of the Education Bill, the GTC for England (Disciplinary Functions) Regulations 2001 will be revoked.

The Teaching Agency will take on some key functions currently carried out by the TDA, GTCE, CWDC and the QCDA. Key areas of delivery will be the supply and retention of the workforce, quality of the workforce and regulation of teacher conduct. ■

### Legal Representation in Disciplinary Hearings

Following a recent Supreme Court judgement an employee is not automatically entitled to legal representation at a disciplinary hearing that might result in him or her being referred to ISA.

This case concerned a music teaching assistant who was alleged to have acted inappropriately towards a pupil at the school at which he worked and following a disciplinary hearing he was summarily dismissed; he was informed that the case would be referred to the former DCSF/ISA.

The teaching assistant argued that the disciplinary hearing was in breach of his right to a fair and public hearing under the European Convention on Human Rights (ECHR) and that he should have been afforded legal representation during the hearing. The Court ruled that the outcome of the School's disciplinary proceedings would not amount to a critical influence on the ISA decision to trigger the 'right to a fair trial' under the ECHR and the need for legal representation. ■

### Agency Workers Regulations 2010 – Supplementary guidance relating to agency supply teachers

From 1 October 2011 agency workers after 12 weeks in a given job (does not have to be continuous), will be entitled to equal treatment (at least the basic employment conditions of that post).

Guidance on the application of the regulations relating to agency supply teachers can be found at: [www.bis.gov.uk/policies/employment-matters/strategies/awd](http://www.bis.gov.uk/policies/employment-matters/strategies/awd)

An agency supply teacher can move between schools where the same local authority (or alternatively academy trust) is the hirer without stopping the clock on the qualifying period unless it is a substantively different role. If an agency supply teacher moves to a school where a different local authority or a different governing body is the hirer, the qualifying clock resets to zero.

If an agency supply teacher moves from an Academy to a maintained school or into employment with a different Academy Trust the qualifying clock resets to zero.

**Pay** – the temporary workers' agency will request information from the school as to the relevant terms and conditions to be applied to the agency supply teacher after 12 weeks in the same role with the same hirer (eg if teachers are paid under the STPCD these conditions apply to the agency worker and the information **must** be supplied to the Agency). Schools will need to consider practical strategies for data sharing their information.

For further clarification and advice on the above, please contact [educateHR](mailto:educateHR). ■

## References – employer liability

It has long been established that an employer who provides a reference owes the relevant employee a duty to take reasonable care in the preparation of the reference. If the employer breaches that duty, the employee can sue the employer for any losses arising (e.g. due to a withdrawn job offer) on the basis of negligent mis-statement by the employer.

Managers writing references are under a duty to provide a reference which is in substance true, accurate and fair. The reference should be objective and must not give an unfair or misleading impression. Problems are more likely to arise where an employee has been less than exemplary during the course of their employment.

If you are in any doubt about the content of a reference you should seek professional HR advice. ■

## Recognising FE Teacher Qualifications (QTLS) – Review of Vocational Education – the Wolf Report

Following the publication of the Wolf Report, Recommendation 17 is of particular interest to HR professionals:

*“At present teachers with QTS can teach in FE colleges; the FE equivalent - QTLS - should be recognised in schools, which is currently not the case. This will enable schools to recruit qualified professionals to teach courses at school level ... with clear efficiency gains”.*

The Government has responded:

*“Recognising QTLS status in schools will require a change in the law ... we intend to implement this recommendation as soon as possible.”*

The Government’s response to the Wolf Report can be found in its entirety at: [www.education.gov.uk](http://www.education.gov.uk)

educateHR has been in contact with the Department and informed that subject to a consultation period and parliamentary process, it is intended that QTLS status will be recognised in schools from April 2012.

Until the law is changed, the existing regulations will remain in force. This means that QTLS holders who work as instructors in a maintained school in England and Wales and those who transferred to an Academy under TUPE must be paid in accordance with the unqualified teachers’ pay scale under the School Teachers’ Pay and Conditions Document (STPCD). ■

## National Scholarship Scheme – closing date end of September 2011

The new professional development (PD) scholarship scheme is open to all teachers (in eligible schools) in England with qualified teacher status (QTS). The scheme focuses on four main priority areas: maths, English, science and special educational needs (SEN) and further supports the professional development of teachers. The maximum award is £3500.

**Applications to the scheme opened in June 2011 and will close by the end of September 2011.**

For details of the Scheme visit: [www.tda.gov.uk](http://www.tda.gov.uk) ■

## Additional Paternity Leave

**Reminder** – The Government introduced a new right to Additional Paternity Leave and Additional Statutory Paternity Pay for fathers of babies due on or after 3 April 2011 (or matched for adoption on or after that date). Under the new right, mothers will be able to transfer the last 6 months of their maternity leave, or part of that leave, to the father.

Your HR policy should reflect these changes along with advice and guidance on how to deal with such requests. We will be happy to provide that service. ■

## Policy Development

**Social Media** – The main threats to an employer from misuse of social media include reputation damage, breach of confidentiality and time wasting. As a new generation of employees are using social networks both at home and at work this has increasingly given rise to disciplinary issues. It is essential that a robust social media policy is incorporated into your HR procedures.

If you would like advice and guidance in preparing such a document, please contact educateHR.

NB In regard to HR policy development/changes, you must consult with recognised unions to seek agreement before implementation; educateHR can offer this service on behalf of your school management.

In this period of change, you may wish to review your current HR provision to ensure that it is offering both value for money and is fully capable of responding appropriately to new challenges facing the education sector.

Please contact educateHR for further information. ■

