

news and articles of special interest for  
headteachers and senior managers

## Welcome...

For those of you who haven't previously seen 'HRfocus', our termly publication, we hope that you will find this newsletter useful in providing updates on recent developments within the education HR sector.

educateHR limited was established in 2010 by Gill Meeson, an experienced Schools HR Advisor based in Kirklees, who along with her associates delivers pragmatic and timely advice to support and train all levels of school management in education HR issues.

Speeding up to the October half term it seems only a few weeks ago that we were preparing for the summer break! Already we have been busy delivering training on running appraisal meetings and objective setting in a number of schools across Calderdale and Kirklees and are looking forward to providing further instruction and support during the latter half of this term with regard to other areas such as seminars on adopting safe recruitment processes (including recent changes in vetting and barring) and on managing capability.

The pace of change continues unabated, not least in the areas of OFSTED requirements in relation to appraisal objectives and correlation with pay progression, reference requests seeking information on capability, and use of instructors in schools plus significant changes in relation to school improvement and the OFSTED framework. ■

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### Teacher Standards

As a reminder, the revised Teacher Standards applicable from September 2012 are now the "relevant standards" against which most teachers should be assessed within the appraisal process.

However, there are other "relevant professional standards" that might apply to some teachers. These include: Advanced Skills Teachers, Excellent Teachers, National Standards for Headteachers (DfES 2004), and QTLS (Institute for Learning IFL).

### Progression on UPS

In order for those teachers already on the upper pay spine to secure a performance pay progression, they must (in addition to meeting their own specific appraisal objectives) demonstrate that they meet the qualifying criteria to progress on the upper pay scale as detailed in the STPCD. Briefly a UPS teacher should continue to meet the 10 post-threshold standards and provide evidence that they have "grown professionally" by "developing their teaching expertise post-threshold". ■

### Points of Interest

#### Early Years Professional Status (EYPS)

A revised set of standards for achieving Early Years Professional Status (EYPS) has been published and can be found at:

<https://www.education.gov.uk/publications/standard/publicationDetail/Page1/TA-00083-2012>

Professor Cathy Nutbrown said: "I do not believe that a level 2 qualification is sufficient to equip a practitioner for work in the early years, and a member of staff with only a level 2 should not be considered 'qualified' for such work... my recommendation is that from Sept 2013, 50 per cent of staff in group settings will need to possess at least a level 3 qualification, and then from September 2015 this should increase to 70 per cent of staff".

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**Appraisal** – schools will need to be prepared for requests from OFSTED to provide an anonymised summary of appraisal outcomes in order to consider whether there is a demonstrable correlation between the quality of teaching and related salary progression (as part of a judgement on 'leadership and management'). Adherence to appropriate standards in objective setting will be seen as crucial in determining the degree of challenge and robustness.

**Support Staff Objectives** – There are no national standards to be used in an appraisal system for support staff. However, there are national occupational standards which can be utilised for such staff in a variety of roles which provide appraisers and appraisees with assistance in drawing up appropriate objectives and performance criteria.

Please contact Gill Meeson: [gill@educatehr.co.uk](mailto:gill@educatehr.co.uk) or telephone 07921099601 for further information or to organise in-house seminars tailored to your specific requirements. ■

## Capability

### (Accusations of) Harassment and Bullying

Often headteachers and managers can be faced with accusations of harassment or bullying by a member of staff when bringing to their attention perceived deficiencies in their standard of work. Even putting in place a well-intentioned support package can be interpreted by the staff member concerned as constituting unwelcome scrutiny and threatening pressure.

The terms "harassment" and "bullying" are often (wrongly) used interchangeably. The Equality Act 2010 defines harassment as "unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual".

Bullying is not defined in law, however ACAS gives the following definition: "Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient".

It is crucial, therefore, that managers are confident and competent in conducting any part of a capability process. They must deal with issues without unreasonable delay. Managers must demonstrate their objectivity by justifying their views including citing examples, evidencing their judgements and giving clear instruction with regard to expectations of standards

to be met within agreed timescales. Managers must also be very clear on the distinction between what they consider to be "competency" issues and what are "conduct" issues. In the light of OFSTED's focus on schools delivering improvements in teaching and learning it is important that appropriate action is taken in dealing with poorly performing teachers.

educateHR Ltd is running a seminar on "Managing Capability Issues" on 20 November at Briar Court Hotel from 08.30 with a breakfast buffet (cost £65 + VAT). This will include the opportunity to share your experiences within small group work. In-house courses can also be arranged to suit individual needs of schools/academies.

### Recruitment - reference requests

The School Staffing (England) (Amendment) Regulations 2012 require the governing body of a maintained school to confirm whether or not a member of the teaching staff at that school has, within the last two years, been the subject of capability procedures (and if so to provide details) if asked to do so by the governing body of any maintained school or academy to which that person has applied for a teaching post (regulation 8A).

**Action** - Schools should incorporate appropriate text into their letters/reference requests to ensure that the information provided is presented in a meaningful format. Teachers on 'formal' capability procedures will be subject to this regulation. Although academies are not bound by such legislation, it is considered good practice to insert an equivalent clause into their own recruitment procedures (and all schools may wish to consider similar practice for support staff). ■

## Teachers' Pay 2012

The School Teachers' Pay and Conditions Document 2012 is available to download from: <https://www.education.gov.uk/publications/standard/publicationDetail/Page1/DFE-00091-2012>

The main changes relate to:

- references to the teachers' standards rather than the core standards (for England only);
- references reflecting the new arrangements for teacher appraisal in both England and Wales;
- the fact that a teacher employed full-time must be available for work 195 days/1265 hours within the academic year (the figures for the previous two years having been 194 and 1258.5 respectively due to additional public holidays).

- The £250 non consolidated payment to those unqualified teachers who earn a full time equivalent salary of no more than £21,000 a year will once again be paid this year.

If you require any further advice or information on teachers' pay please contact Jo Lawless on 07739351549, Gill Meeson on 07920199601 or email [admin@educatehr.co.uk](mailto:admin@educatehr.co.uk) ■

### Academy freedom to recruit non-QTS staff

The government has made changes to the model funding agreement for schools converting to academy status to give them the same freedom as free schools to employ people without Qualified Teacher Status (QTS) in a teaching role. Existing academies may, should they wish, request that their funding agreements be changed to include this new freedom.

Due to their unique and specialist role, SEN Co-ordinators and designated teachers for "looked after children" will still be required to hold QTS. ■

### Legislative Changes – Use of Instructors in Schools

The Education (School Teachers) (Qualifications and Specified Work) (Miscellaneous Amendments) (England) Regulations 2012 came into force on 1 September 2012. The regulations make amendments to the "Education (Specified Work) (England) Regulations 2012":

... to remove the condition that an instructor may only carry out specified work if no suitable qualified teacher or teacher on the employment based training scheme is available. It will also remove the restriction that an instructor may only carry out specified work for such period of time as no suitable qualified teacher or teacher on the employment based training scheme is available.

There is no definition of the specialist qualifications needed by instructors taken on to carry out teaching duties, it is up to the school to justify their need for special qualifications or experience. ■

### Changes to CRB eligibility and "regulated activity"

Summary of major changes in September 2012:

- ✓ A new tighter definition of "regulated activity"
- ✓ Repeal of the previous government's proposed registration and continuous monitoring arrangements referred to as the Vetting and Barring Scheme (VBS)

- ✓ Repeal of the "controlled activity"
- ✓ Repeal of registration and continuous monitoring
- ✓ Repeal of additional information
- ✓ Minimum age of 16 for eligibility for a CRB Disclosure
- ✓ More rigorous 'relevancy' test for the release of information held locally by the police on an enhanced CRB check.

The following points remain applicable: you must make appropriate referrals to the ISA and you must not permit to engage in 'regulated activity' someone whom you know has been barred by the ISA.

The most important aspect of this for schools is that the tighter definition of "regulated activity" will still include all work in schools. So all employed posts within schools remain eligible for enhanced CRB disclosures with barred list checks.

In summary the new definition of regulated activity in relation to children (i.e. work that a barred person must not do) comprises:

- (i) unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children
- (ii) work for a limited range of establishments ("specified places"), with opportunity for contact: e.g. schools, children's homes, childcare premises (this does not include work by supervised volunteers)

Work under (i) or (ii) is 'regulated activity' only if carried out on a regular basis. For further details on "regulated activity", statutory guidance and Home Office links see: <http://www.education.gov.uk/childrenandyoungpeople/safeguardingchildren/a00209802/disclosure-barring>. ■

### CRB new identity verification guidelines

The CRB has introduced new identity checking guidelines with the enhancement being introduced to strengthen public protection. In particular, the changes will make it more difficult for individuals to conceal previous criminal records by changing their name. The practical focus will be on ensuring that applicants are required to produce documents that they would have acquired through undergoing stringent identity verification with the document issuer, such as the Identity and Passport Service or the Driver and Vehicle Licensing Agency.

No less than 21 identity documents have been removed from the list of acceptable documents.

For further guidance on ID checking and a complete list of the revised acceptable documents, visit the Home Office website at <http://www.homeoffice.gov.uk/crb> [www.homeoffice.gov.uk/crb](http://www.homeoffice.gov.uk/crb) ■

### Teacher Sick Pay - "Injury or Assault"

Based on the findings of a recent employment tribunal case involving a teacher's sick pay, paragraph 9.1 (which deals with pay in cases of sickness absence caused by injury or assault) of the Burgundy Book now applies not just to physical injuries but also to psychological and psychiatric injuries.

In this particular case the school had thought that "injury or assault" in paragraph 9.1 only covered physical injury and therefore continued to pay the injured party in line with the provisions of section 4 paragraph 2 of the Burgundy Book (ie full pay leading to half pay, rather than full pay for the duration).

However, such an injury or assault must be "attested by an approved medical practitioner to have arisen out of and in the course of the teacher's employment ...". If any fitnote received does not provide the requisite level of detail, the employer will need to investigate the matter in more detail with the teacher's GP or other medical practitioner.

On a further note paragraph 11.2 of the Burgundy Book provides that sick pay can be suspended if the employer is of the opinion that the absence is due to teacher misconduct or that the teacher has been guilty of conduct which is prejudicial to their recovery. ■

### Proposed changes to Teachers' Pension Scheme

The new scheme will be in place from April 2015. It affects those who are within 10 years of normal pension age (NPA) on 1 April 2012 insofar as they will be protected from new scheme changes (other than changes to contribution increases).

Teachers will have an NPA of 65 if they joined the TPS since January 2007. If they joined before 1 January 2007 and have continued in pensionable service they will have an NPA of 60.

Teachers who are more than 10 years but less than 13.5 years away from NPA will remain in the existing scheme for a limited period after 2015 before commencing in the new scheme.

All others will automatically be enrolled into the new scheme in 2015. This will give them a pension in two parts: one based on service to 2015 and one based on service in the new scheme from 2015.

Normal pension age will be linked to the "state pension age".

The new scheme is a "career average" scheme which means that from 2015 pension benefits will be based on an average of pensionable earnings between 2015 and the date of retirement.

Any benefits accrued up to 2015 or on joining the CARE scheme will be protected and payable, based on final salary, at retirement. ■

### Pensions and Auto enrolment

Under the new automatic enrolment legislation an employer is required to enrol all "eligible jobholders" into an automatic enrolment scheme and pay minimum employer contributions or provide a minimum level of benefits.

As an employer you are also required to provide information to workers about their new rights and to re-enrol (approximately every three years) eligible jobholders who choose to opt-out. It is essential that you issue effective and timely communications to your staff in order to ensure that they fully understand these changes and the implications.

It is important that a nominated individual within your school/academy is charged with responsibility for overseeing compliance.

For further information on pensions refer to:

<http://www.pensionsadvisoryservice.org.uk/>

<http://www.nestpensions.org.uk/> ■

### Workshops and training

In the near future educateHR Ltd will be running workshops on a number of topical HR areas including those for Governors. These will cover (amongst other topics) managing capability, disciplinary, recruitment, (incl. safer recruitment) attendance management and pay structures.

Please look out for information via email alerts: in November we have already fixed a date for '**Managing Capability Issues**' on Tuesday 20 November at 8.30 am at Briar Court Hotel. ■

In this period of change you may wish to review your current HR provision please contact educateHR Ltd for further information:

**Gill Meeson** 07921099601 or [gill@educatehr.co.uk](mailto:gill@educatehr.co.uk)

**Jo Lawless** 07739351549 or [jo@educatehr.co.uk](mailto:jo@educatehr.co.uk)