

news and articles of special interest for
headteachers and senior managers

Welcome...

Finally we are near the end of the academic year and are now preparing (as ever!) for further changes in September, not least in the area of HR policies.

One consistent theme of the current Administration has been to give school leaders and governors increased autonomy by relaxing various requirements previously governed by legislation and this is an important area in which an HR provider can (and should) be offering support and advice with regard to exploring these possibilities.

The latest developments in the area of 'leadership pay' which allow schools and academies increased flexibility in rewarding members of the leadership team, require amendments to every school or academy's pay policy to be effective on 1 September 2014 (or as near to this date as is practical). A key document that every staff member should be aware of (and should be fully familiar with, at the very least, Part 1) is the statutory guidance 'Keeping Children Safe in Education' (published April 2014) which again gives schools and academies a degree of discretion in acting proportionately when dealing with recruitment and DBS checks etc. "Safer Recruitment" is a topic on which we have been actively delivering training, including how to ensure that minimum requirements (at the very least) are met. ■

Changes to the School Teachers' Pay and Conditions Document – Leadership Pay

In our last HRfocus issue 008 dated March 2014 (incidentally all our previous newsletters are now accessible on our website www.educatehr.co.uk) we detailed the recommendations of the STRB 23rd Report relating to teachers on the leadership range. The STPCD draft guidance has now been published and, subject to the consultation on the 24th STRB Report on how to apply the pay award of 1%, this document will come into force on 1 September 2014.

The STRB have recommended that the uplift should be applied only to the minima and maxima of all the pay ranges and allowances in the national pay framework. This means of course that the 1% does not have to be applied to local agreements set by individual schools ie if a school is still using the previous M1 – M6 ranges, the points M2 – M5 will not (automatically) be updated. This

is currently the subject of consultation until the 18 July 2014 but if this recommendation is accepted then the governing body of every school or academy will have to decide (in the very near future) how they intend to handle this delicate matter.

Highlights of the changes:

- ✓ removal of pay points within the leadership range – only retained minimum and maximum salaries
- ✓ headteacher pay to be set using pupil numbers/group size calculation as the underlying basis for remuneration (as now)
- ✓ pay range to be set taking into account the challenge of the role, context and complexity (looser criteria) with potential

continued over »»

Point of Interest

A salutary warning – safer recruitment ...

A conman was recently employed as a teacher at a West Yorkshire primary school for almost four months before authorities discovered he was not qualified. The "teacher" succeeded in concealing his criminal past in order to obtain the job at an infant school in Kirklees and was offered a teaching post after a 'successful and impressive interview'.

In order to get the job, he had to submit an application form with a statement of disclosure regarding criminal convictions, but the declaration was untrue and in fact he had previously been given a prison sentence (suspended) for fraud in connection with a previous job application when he had lied that he had a degree in adult nursing from Huddersfield University.

The conman worked at the school for almost four months before his lies came to the attention of an officer making a check last year who discovered something amiss. Further investigation revealed he had completed teacher training but had not passed a 'final skills test' to qualify as a classroom teacher. He had been paid £6900 in salary before the deception came to light. He was given an 18 months sentence, suspended for two years.

In this Issue:

- ✓ Changes to the STPCD – Leadership Pay
- ✓ Headteacher standards
- ✓ Changes to flexible working requests
- ✓ Shared parental leave
- ✓ Safer recruitment training
- ✓ Sickness absence and dismissal
- ✓ Statistics
- ✓ Teachers' pension changes

to set the pay range with a maximum of up to 25% above the relevant teacher pay group range

- ✓ cannot double count any criteria to increase the pay
- ✓ possible to amend pay range if individual skills/abilities warrant it
- ✓ school to determine number of points in the range (no longer constrained by regulations)
- ✓ school to determine the starting point on the pay range (ditto)
- ✓ must be scope (“headroom”) for progression **based on performance**
- ✓ must be an allowance for differential pay progression
- ✓ deputy and assistant headteacher pay – similar process in deciding the pay range, number of points on the range and starting point
- ✓ more flexibility between headteacher range and deputy/assistant headteacher ranges
- ✓ may have overlap between headteacher and deputy headteacher ranges in exceptional circumstances
- ✓ schools may review current leadership posts if necessary to maintain consistency, but no obligation to do so in the absence of a new appointment
- ✓ removal of differentials between TLR allowances
- ✓ removal of Annex 3 (list of administrative tasks)
- ✓ removal of Section 4 Guidance. ■

Headteacher Standards

DfE latest: *‘The updated standards will be designed by a small group of respected professionals, including headteachers, middle leaders and a chair of governors, and will take into account the changing nature of school leadership, such as executive heads or those responsible for multiple schools under academy trusts.*

The review will take account of wider leadership reforms, including the revised National Professional Qualification for Headship (2012) and the revised Teachers’ Standards.

The review, including draft revised standards, will report to the Secretary of State for Education in the summer, with the intention of publishing standards in the autumn.’ ■

Changes to flexible working requests

On 30 June 2014 new Flexible Working Regulations came into force. The right to request flexible working is now extended to cover all employees after 26 weeks’ service, rather than (as previously) only those with children under the age of 17 (or 18 if the child is disabled) and certain carers. The statutory procedure for dealing with requests has been replaced by a duty to deal with requests “reasonably” and ACAS have published a statutory Code of Practice relating to that duty, which managers must be familiar with and must observe.

Requests may be wide ranging and you need to know the reason behind the request as this determines how you would deal with competing requests whilst observing your legal obligations in relation to discrimination claims.

The legislation requires that all requests, including any appeals, must be considered and decided on within a period of three months from first receipt, unless you agree with the employee to extend this period. ■

Shared Parental Leave

Regulations (currently in draft form) on shared parental leave and pay are due to come into force in October 2014 and will apply to babies born on or after 5 April 2015. These new regulations will also apply to adoptive parents.

Mothers will continue to be entitled to 52 weeks’ maternity leave, but the new regulations will allow them flexibility as to whether to take all 52 weeks as maternity leave or share some leave with their partner.

Mothers must take two weeks’ compulsory maternity leave, but the remaining 50 weeks can be taken either as maternity leave or as shared parental leave, provided the mother (or main adopter) has curtailed her maternity leave.

If employees have asked for a single continuous period of leave, they are entitled to take it without the employer being able to object. If they have asked for separate periods of leave (discontinuous blocks of leave), the employer can:

- agree to the requested pattern of leave
- refuse the request
- refuse the request but propose alternative dates.

You should be mindful that although the scheme will largely come into force in April 2015, the legislation comes into force in October 2014 so from this date employees may be asking you

about and potentially requesting shared parental leave therefore you need to ensure that you are prepared by the earlier date.

Attending Antenatal appointments – From 1 October 2014 legislation enables expectant fathers, and partners of pregnant women, to take time off work to attend two antenatal appointments with the expectant mother. ■

Safer Recruitment Training

The DfE statutory guidance 'Keeping Children Safe in Education' published in April 2014, replaces 'Safeguarding Children and Safer Recruitment in Education' (December 2006) and should be read in conjunction with 'Working Together to Safeguard Children' (March 2013). Part 3 deals with safer recruitment and states that "it is vital that schools create a culture of safe recruitment and, as part of that, adopt recruitment procedures that help deter, reject or identify people who might abuse children." The requirement remains that at least one member of a recruitment panel must undertake safer recruitment training, however, from September 2014 this will no longer need to be provided by a person approved by the Secretary of State. It states that all staff in school should read Part 1 of the guidance and that everyone in school should maintain an attitude of 'it could happen here' (in which context please see "Point of Interest").

It also reiterates the definition of 'regulated activity', and allows more flexibility for managers in making (proportionate) decisions as to whether to undertake DBS checks for volunteers and for applicants who, in the three months prior to beginning work in the new appointment, have worked: in a school in England in a post which brought them into regular contact with children **or** in any post in a school since 12 May 2006 etc (the assumption being that they have already obtained a clear DBS check – although the possibility that something untoward has occurred subsequently does not appear to be addressed by this guidance).

The latest guidance also makes clear that a school/college may not request an enhanced DBS check with barred list check for anyone working in school/college who is **not** in 'regulated activity', but that they may request an enhanced DBS check without a barred list.

It additionally highlights Secretary of State Prohibition Orders which prevent a person from carrying out teaching work in schools/sixth forms colleges. A check of any prohibition must be carried out using the DfE Employer Access Online Service before any teaching appointment is confirmed.

The document also details that although there is no longer a specific requirement for staff to have child protection training every 3 years, "all staff members should also receive appropriate child protection training which is regularly updated".

OFSTED – 'Inspecting Briefing' paper Section 5 published in April 2014 states at paragraph 18 that governing bodies and proprietors should prevent people who pose a risk of harm from working with children and goes on to quote from the KCSIE document.

If you feel you might benefit from either in-house training for your leadership team or a training session for cluster/pyramid groups, please contact Gill Meeson for further details.

NB. As stated in the text above, although DfE accreditation for trainers will (from 1 September 2014) no longer be necessary, there will still be a requirement for at least one member of an interview panel for recruitment to have undergone appropriate training in safeguarding. All training from educateHR will satisfy this requirement. ■

Sickness absence and dismissal

A difficult and sensitive issue to address is the question of when it is reasonable for an employer to dismiss an employee on grounds of long term ill health absence. A recent employment tribunal has provided some guidance (with regard to a claim for unfair dismissal following a decision to dismiss on grounds of long term ill health after a year reporting sick with depression and anxiety). This constitutes a helpful tool in the balancing exercise that employers should carry out before dismissing on grounds of ill health.

Essentially this involves weighing the nature of the employee's illness and his/her prospects of returning to work against the employer's organisational needs and, critically, whether it would be reasonable to wait any longer.

The relevant issues for managers to consider are:

- would any reasonable employer have waited longer before dismissing the employee and, if so, for how much longer?
- whether the employee had been consulted, whether their views had been taken into account and whether such views had been properly balanced against any medical professional's opinion.
- whether reasonable steps had been taken to discover the employee's medical condition and likely prognosis.

If you are in any doubt about how to handle the future termination of an employment contract you should ensure that meaningful communication has taken place with the employee (involving their union as appropriate) with at least one referral to occupational health. You should also take into account the above factors. In addition you should be mindful (with regard to teaching staff) of teacher termination dates and subsequent notice pay periods.

educateHR has ready access to specific expertise and knowledge in this area and is able to offer any school or academy relevant advice

and guidance, including support in both drafting occupational health referral documentation (to include pertinent questions) and in providing expert analysis of occupational health reports. ■

Statistics

We thought you may find this information interesting – these are extracts taken from the DfE's 'statistical first release' 'School Workforce in England November 2013' published in April 2014.

Sickness – In the 2012-13 academic year 57 per cent of teachers in service at any time during the year had at least one period of sickness absence compared with 55 per cent in 2011-12. For those teachers taking sickness absence the average number of days lost was 7.9, representing a reduction from the average of 8.1 days which were lost in the previous year

QTS – In 2013, 96.2 per cent of FTE teachers have Qualified Teacher Status, down from 96.7 per cent in 2012.

Commensurately, after a steady decline over the last few years, the number of teachers without Qualified Teacher Status has increased by 2,300 FTE from 14,800 FTE teachers without QTS in 2012 to the current level of 17,100 in 2013.

Salaries – The average salary for full-time qualified teachers in LA maintained nursery/primary schools was £36,600 (compared with £35,800 for equivalent teachers in primary academy schools).

The average salary for full-time qualified teachers in LA maintained secondary schools was £39,600 – this compares with £39,000 for equivalent teachers in secondary academy schools. ■

Teachers' Pension Changes

As you should all be aware the teachers' pension scheme is being reformed. The changes will take effect from 1 April 2015, when teachers' pensions will be calculated on a career average basis (CARE) (as opposed to the previous final salary scheme) and occupational pension age will be linked to state pension age.

These changes will not apply to all members, because transitional protections are in place for those closest to retirement. If a member was an active member immediately prior to 2012, and is within 10 years of their anticipated pension age on the date the changes come into effect, they will be protected and will remain in the final salary scheme. Further details can be found on the teacher pension website: www.teacherspensions.co.uk/change2015.

Employer contribution changes – from September 2015

HM Treasury (HMT) has published the final Directions and the expected outcome of the Teachers' Pension Scheme valuation is a total contribution rate of 26%.

The Teachers' Pension Scheme final agreement provides that scheme members will pay an average contribution rate of 9.6%, with the balance falling on employers. The DfE valuation report confirms that the employer contribution rate for the Teachers' Pension Scheme will increase from 14.1% to 16.4% and that this increase will be effective from 1 September 2015. ■

Human Resources Services

If you would like advice and guidance on any of the above topics (or indeed any other HR issues) educateHR will be pleased to support you either on an individual establishment basis or through federation/multi academy, cluster or pyramid groups.

Our services are infinitely flexible to meet your needs without the need for lengthy contract service level agreements.

For further information visit our website: www.educatehr.co.uk or please contact:

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Notes
