

Spring Term 2024

HR BRIEFING

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THE TERMLY LAW AND POLICY UPDATE FROM EDUCATION HR

As part of our usual termly update we've pulled together some of the latest law and policy developments to keep you ahead of recent and forthcoming changes.

Amidst the ongoing challenges that all schools are facing at the moment, don't forget that we are here to help with any HR and staffing matters that you may require extra guidance on, via our [HR website](#) and advisory team.

Education HR Team

EMPLOYMENT LAW UPDATES

HOLIDAY PAY & ENTITLEMENT REFORMS

Relevant to

All schools and education settings

The government published the guidance document [Holiday Pay and Entitlement Reforms](#) in January 2024.

Several changes to the Working Time Regulations (1998) affecting record keeping and carry-over rules for holiday entitlement which took effect on 1 January 2024:

- A simplification of the record-keeping requirements under regulations to maintain the requirement to keep “adequate” records, but not necessarily a full record of all daily working hours
- Carryover over of untaken leave due to maternity/family-related absence:
 - up to 5.6 weeks’ leave can be carried forward into the following leave year
- Carryover over of untaken leave due to sickness absence:
 - leave of up to 4 weeks leave can be carried forward into the following year (must be taken within 18 months of the end of the leave year in which it was accrued)
- Removal of carry forward of untaken annual Leave due to Covid-19 (Any existing carryover leave must be used by 31 March 2024)
- New statutory Definition of ‘normal pay’ for the purposes of calculating holiday pay:
 - Basic pay
 - payments, including commission payments, which are intrinsically linked to the performance of the tasks which a worker is obliged to carry out under their contract
 - payments for professional or personal status relating to length of service, seniority or professional qualifications
 - other payments, such as overtime payments, which had regularly been paid to the worker in the 52 weeks preceding the pay calculation.

The new definition of ‘normal pay’ is broadly in line with what is already required under case law, we anticipate that most employers should not need to make any substantial changes.

Changes affecting the calculation of holiday entitlement and holiday pay are effective for leave years starting on or after 1 April 2024:

Introduction of an accrual method for holiday entitlement for irregular-hours and part-year workers:

- The accrual method is based on 12.07% of the hours worked in the previous pay period (effectively reintroducing the familiar ACAS method of calculating holiday entitlement and reversing the Supreme Court ruling of 2022 in the case of Harpur Trust v Brazel that statutory holiday entitlement cannot be prorated for part-year workers)
- For workers on sick-leave, or other family-related leave, accrual of holiday entitlement will be based on average working hours over a 52-week reference period.

Calculation methods for holiday pay

Holiday pay is based on the legal principle that a worker should not suffer financially for taking a holiday. Pay received by a worker while they are on holiday should reflect what they would have earned if they had been at work and working.

Rolled-up holiday pay for irregular hours and part-year workers:

- Rolled-up pay can be paid as an uplift of 12.07% to the workers’ remuneration for work done in each pay period where workers meet the definition of ‘part year’ or ‘irregular hours’ under the [government guidance](#)

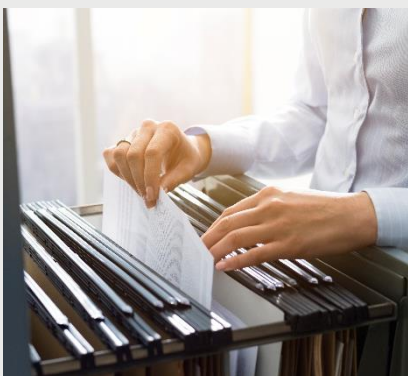
In some cases, employers pay the 4 weeks of statutory holiday arising from the EU law at a ‘normal’ rate & pay the 1.6 weeks of statutory holiday entitlement arising from the UK working time regulations basic rate – in these cases, schools will need to change that to a ‘normal’ rate calculation if choosing to use rolled-up holiday pay.

HR Customers can access more information and a range of FAQs on this topic via our [HR Resources Hub](#).

The Local Government Association (LGA) has indicated they will be reviewing the Part 4.12 Green Book guidance on term-time-only employees in light of these changes so schools using Green Book Terms and Conditions for Support Staff may wish to wait for publication before making any changes.

EMPLOYMENT LAW UPDATES

(cont.)



CHANGES TO FLEXIBLE WORKING

Relevant to

All schools and education settings

Changes effective 6 April:

- Employees will have the right to request flexible working from day 1 of employment (at present eligible employees must have been employed for at least 26 weeks)
- Employers will be required to consult with the employee when they make a flexible working request before rejecting it
- The time allowed for an employer to respond to a request will be reduced to two months (currently three months)
- Employees will no longer be required to explain what effect, if any, their request would have on the employer and how that might be dealt with
- Employees will be able to make two requests within a 12-month period, compared to the single request they are currently allowed

Actions to take in advance of the changes:

- Review **flexible working policies** ensuring they align with the new regulations.
- Ensure **effective processes are in place to review and respond to applications** promptly

Although workers will be granted the right to request flexible working from day one, there's no guarantee that these requests for flexible working will be granted.

ACAS recently published an updated **statutory [Code of Practice on requests for flexible working](#)** for employers to consult, which will be taken into account by employment tribunals.

It includes information on areas such as how to consult with an employee, the need for transparency when rejecting a request and the importance of proactively offering an appeal in the event of a rejection.

HR Customers can access updated policy and guidance documents via Flexible Working pages on the [HR Resources Hub](#).

CARER'S LEAVE

Relevant to

All schools and education settings

- A new 'day one' right effective 6 April
- Provides employees who have caring responsibilities for dependants with long-term care needs with a right to **one week's unpaid leave** per year
- To reduce the administrative burden employees are not required to evidence their role as carers
- Employers are not able to deny an employee's request for carers leave but can postpone it if they reasonably consider that the operation of the business would be unduly disrupted if the leave was approved
- The employee must be allowed to take the requested leave within a month of their original request

Unlike the right to take unpaid time away from work to manage short-term unexpected issues surrounding the care of dependants, carer's leave is aimed at supporting employees caring for those with **long-term care needs**.

An employee will be able to bring an employment tribunal claim if their employer has unreasonably postponed, prevented or attempted to prevent them from taking carer's leave. Employees taking Carer's leave have the same protections from dismissal or detriment as they would if they had taken other types of family-related leave.

Statutory Carer's Leave is a minimum entitlement your school or trust may wish to provide enhanced carer's leave and pay benefits if you are looking develop an inclusive People Strategy to support you in becoming an employer of choice

HR customers can access a range of resources on the Carer's Leave pages of the [HR Resources Hub](#).

EMPLOYMENT LAW UPDATES

(cont.)



EXTENSION OF REDUNDANCY PROTECTIONS

Relevant to

All schools and education settings

Further protection during pregnancy or family leave will enhance job security within the context of redundancies from 6 April 2024. Currently, protection is given to employees on maternity, shared parental or adoption leave, in that they have a right to be offered a suitable alternative role, if one is available, before they are made redundant and must be preferred for the role, all other things remaining equal.

Under the new legislation:

- Pregnant employees, employees taking adoption leave, and employees on Shared Parental Leave will be eligible for enhanced protection for 18 months from the child's date of birth.
- Employees who have suffered a miscarriage will get two weeks of additional protection after the end of the pregnancy, for pregnancies ending before 24 weeks.
- Pregnancies ending after 24 weeks would be entitled to the same protection as those on maternity leave.

With an increase in the number of employees who could be eligible for priority status, employers will need to ensure robust systems are in place for identifying potentially suitable vacancies.

HR customers can access updated resources in the Redundancy and Restructuring pages of the [HR Resources Hub](#).

CHANGES TO PATERNITY LEAVE

Relevant to

All schools and education settings

New rules apply in cases where the Expected Week of Childbirth (EWC) is on or after 6 April 2024.

Key changes under the new legislation:

- Fathers and partners can now choose to take their two weeks of statutory paternity leave as either two separate one-week blocks or as two consecutive weeks. This offers enhanced flexibility to employees.
- The period of leave can be taken at any point within the first year after the birth or adoption of the child. Currently, fathers are required to take paternity leave within 56 days following the date of birth or adoption.
- The dates for the leave can be varied with 28 days' notice. This is a change to the current requirement to give at least 15 weeks' notice before the EWC.

HR Customers can find updated resources can be found on the Paternity Leave page of our [HR Resources Hub](#).



For information regarding forthcoming employment law developments coming later this year and in 2025 including TUPE consultation requirements, workplace discrimination laws, and the introduction of neonatal care leave and pay visit the legislation tracker on our [HR Resources Hub](#).

SCHOOL TEACHERS' PAY AWARD 2024/25

Relevant to

Maintained schools, PRUs and most academies

The Department for Education (DfE) published the [STRB remit letter for 2024/25](#) in December.

Key messages included in the remit to the School Teacher' Review Body (STRB) who are responsible for making recommendations on the pay and conditions for teachers and school leaders include:

- The need to place the 2023/24 pay award in context as being historically high
- A request to consider the Government's affordability position when making any recommendations about the 2024/5 pay award
- Confirmation that any recommendations should, as usual, be made in the light of cost pressures that schools are facing, and the equalities impacts associated with any changes proposed

The DfE also asked the STRB, as is usual, to consider forecast changes in pupil population, a commitment to increasing headteachers' autonomy, and teacher recruitment and retention in its pay recommendations.

The STRB is due to report back to the Department for Education in May 2024.



PAY & BENEFITS UPDATES



NJC 'GREEN BOOK' PAY NEGOTIATIONS

Relevant to

Settings where Green Book / NJC pay and conditions apply

The employers side of the NJC (National Joint Council) reached a deal with the Unions (Unite, GMB & Unison) on the 2023/24 Pay Award on 1 November 2023 after a long-running dispute.

Updated pay spines for 2023/4 were published by NJC & the GLPC (Greater London Provincial Council) on 1 November. HR Customers can find comprehensive details on our [HR Resources Hub](#) – including updated NJC & GLPC Pay Scales & Allowances for 2023/4.

For 2024/5 consultation is ongoing between the unions and their members with a pay claim expected to be submitted imminently. Unison has indicated the headlines are likely to include a claim for an increase of 10% or £3000 whichever is greater and a commitment to reach a minimum rate of pay of £15 an hour over the next two years.

NJC Pay settlement 1 Nov 23	GLPC settlement 1 Nov 23
An increase of £1,925 (pro rata for part-time employees) to be paid as a consolidated, permanent addition on all NJC pay points 2 to 43 inclusive	An increase of £2,226 on Outer London pay points up to and including spine point 48. Above these pay points an increase of 3.88% will apply
An increase of 3.88% on all pay points above the maximum of the pay spine but graded below deputy chief officer	An increase of £2,352 on Inner London pay points up to and including spine point 50. Above these pay points an increase of 3.88% will apply.
An increase of 3.88% on all allowances	Allowances, including overtime rates, to be increased by 3.88%

EDUCATION POLICY UPDATES

Relevant to

Maintained schools, PRUs and academies

Workload Reduction Taskforce – initial recommendations

The Department for Education has published initial recommendations made by the workload reduction taskforce, commissioned in October 2023 with the aim of reducing the working week of teachers by 5 hours within 3 years.

Final recommendations are due to follow in Spring 2024.

The initial recommendations of most relevance to HR practitioners include:

- A formal commitment to **consult with statutory consultees on PRP with a view to removal** is recommended in time for the 2024/25 academic year with a rapid review of current guidance to ensure a replacement is ready for 1 September 2024
- The need for the DfE and Unions to raise awareness of the **Staff Wellbeing Charter**
- Guidance to be amended for governors and trustees so that the **core function of strategic leadership includes consideration of staff workload and well-being.**
- Schools and trusts should consider the merits of assigning a **senior leader with dedicated responsibility for improving wellbeing and reducing workload.**
- The DfE, working with trade unions and employers, should continue to **promote and embed a diverse range of flexible working opportunities** in schools.

Updated School Workforce Planning guidance

The Department of Education has updated its School Workforce Planning guidance for the first time since 2018. The updated guidance document places a greater emphasis on the people and data management aspects of workforce planning.

The guidance introduces 6 principles to guide leaders' decision-making:

- Have a clear school vision, underpinned by a **people strategy**
- Invest in the **development of people**
- Review working practices to ensure staff can focus on what matters
- Be **data and evidence-led** when making decisions about staffing
- Be creative, saving where you can to invest elsewhere
- Have a culture, system and processes that enable **staff to be deployed flexibly** across schools

The Department for Education Staff Wellbeing Charter is also identified as a useful resource, defining organisational commitments enabling schools to direct their efforts to support the wellbeing and mental health of employees.

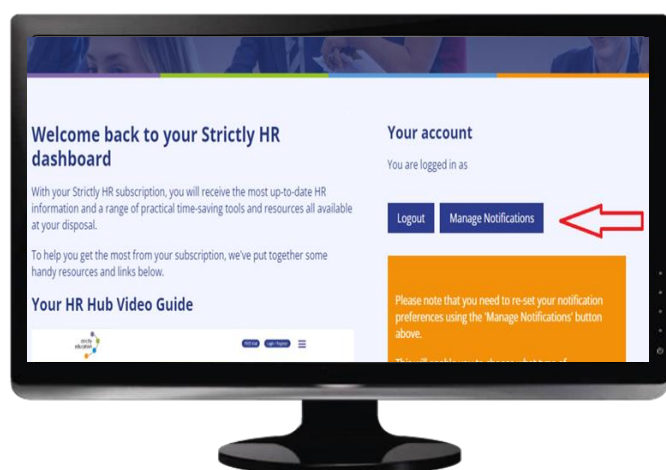
For more detail visit our [Latest News](#) pages.

The contents of this briefing are for information and guidance purposes and should not therefore be relied upon as a substitute for specific, tailored HR or legal advice.

ONLINE TRAINING SPRING TERM 2024

Course Title	Date(s)	Time	Price & Booking Link
Managing and Processing DBS Checks - 2 modules	28th February 2024	09:30 - 12:00	£250.00
Managing Absence and Supporting Staff Wellbeing	29th February 2024	09:30 - 12:00	£140.00
The Foundations of HR in Education	12 March 2024	09:30 - 12:00	£495.00
Safer Recruitment for School Managers	20 March 2024	09:30 - 12:00	£140.00
Managing the Single Central Record	27 March 2024	09:30 - 12:00	£140.00
An Introduction to Equality, Diversity and Inclusion	Bespoke Training Package	09:30 - 12:00	Bespoke Training

We also provide a wide range of group training workshops in the management of human resources as well as whole staff workshops which can be delivered at your individual school or setting at a time to suit you. The content and duration can be tailored to your particular requirements. Please contact Eduhrsupport@strictlyeducation.co.uk for further information.



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The HR Resources Hub is our means of sending out email notifications to you, with news items, newsletters, and content updates. You can set your choice of notifications via the ["my account"](#) tab on the home page.

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- How to get the best out of newly recruited staff
- How to manage probation
- How to effectively manage capability in schools
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