

Autumn 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 Resources Hub](#) and advisory team.

Education HR Team

EMPLOYMENT LAW UPDATES

NEW DUTY FOR EMPLOYERS TO PREVENT SEXUAL HARASSMENT AT WORK

Relevant to

All schools and education settings

On 26 October 2024, the new [Worker Protection \(Amendment of Equality Act 2010\) Act 2023](#) will come into force.

The Act introduces a new duty on employers to take reasonable steps and proactive measures to prevent sexual harassment of their workers from occurring in the workplace, and the duty also includes taking steps to prevent sexual harassment by third parties, such as clients and customers.

The Act defines sexual harassment as '*unwanted conduct of a sexual nature which has the purpose or effect of violating someone's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them*'.

From October 26 if an employer is found liable for failing to take reasonable steps to prevent sexual harassment a tribunal can uplift compensation (in successful claims) by up to 25%.

The Equalities and Human Rights Commission (EHRC) has recently produced guidance on preventing sexual harassment at work, which includes a [useful 8-step guide](#).

The guidance makes it clear that an employer is unlikely to be able to comply with the preventative duty unless they carry out a risk assessment.

Updated guidance and a risk assessment template for you to use is available on the [HR hub](#).

Employers are also required to have a policy setting out your organisation's commitment to preventing bullying and harassment at work (including sexual harassment) which also covers the procedure for raising and investigating complaints of bullying and harassment.

Our example Bullying and Harassment policy has been updated, together with our Equality, diversity and Inclusion policy, both are available in the [HR hub](#).

THE EMPLOYMENT LAW AGENDA UNDER A NEW GOVERNMENT

Relevant to

All schools and education settings

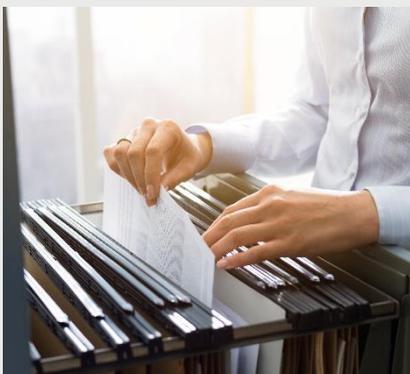
The [Employment Rights Bill](#), which will make wide-ranging and radical changes to employment law in the coming years was published on 10 October. The Bill is part of broader employment law agenda to 'make work pay' for workers. Key provisions include:

- New 'Day-One' Worker Protections: Employees will now be protected against unfair dismissal and have rights relating to parental, paternity and bereavement leave (extended to all not just parents) from their first day of employment
- Changes to fire & rehire: it will be automatically unfair to dismiss an employee for refusing a contract variation
- Sick Leave: Statutory sick pay will become available from the first day of illness rather than after three days
- Zero-Hours Contracts: While not completely banned, "exploitative" zero-hours contracts will be curtailed. Workers on these contracts will have the right to guaranteed working hours after a set period, and they will receive compensation if shifts are cancelled or cut short
- Probation Periods: The Bill introduces statutory probation periods for new hires, with a nine-month limit being proposed
- Flexible Working as the Default: Flexible working arrangements will be the default unless employers can reasonably refuse
- Stronger protections for pregnant women and new mothers
- Requirement for Equality Action Plans e.g. for closing the Gender Pay Gap & Managing Menopause at work for larger employers (>250 employees)
- Provisions for introducing sector wide collective bargaining for school support staff and adult social care workers

Many of the changes will not be implemented until 2026 following further consultations.

EMPLOYMENT LAW UPDATES

(cont.)



THE EMPLOYMENT LAW AGENDA UNDER A NEW GOVERNMENT contd.

Relevant to

All schools and education settings

The government also published the policy paper [Next Steps to Make Work Pay](#) alongside the publication of its Employment Rights Bill.

The paper covers further reforms which sit outside of the Employment Rights Bill with no commitment as to when they will happen.

The paper details:

- a 'right to switch off', preventing employees from being contacted out of hours, except in exceptional circumstances
- a requirement for large employers to report their ethnicity and disability pay gap
- a move towards a single status of worker and transition towards a simpler two-part framework for employment status
- reviews into the parental leave and carers leave systems to ensure they are delivering for employers, workers and their loved ones.

The paper also confirms:

- The government's commitment to consulting widely and allowing employers time to adjust to the reforms
- Consultations on zero-hour contracts, statutory sick pay rates, and trade union laws,
- Phased Implementation for many reforms with consultations starting in 2025 and the majority of changes expected by 2026
- More detail will be provided in due course though regulations and code of practice

The reforms included within the Employment Rights Bill and those beyond will necessitate the review and development of HR policies and procedures in number of key areas.

We will keep you regularly updated as we review and update existing document in line with future developments.

NJC 'GREEN BOOK' PAY 2024/25

Relevant to

Settings where Green Book / NJC pay and conditions apply

NJC pay claim for 2024-25 was made in January by the Joint Trade Union Side (UNISON, GMB and UNITE).

The main points included:

- An increase of at least £3,000 or 10% (whichever is greater) on all spinal column points
- Reviews of the gender, ethnicity and disability pay gaps in local government
- A 2-hour reduction in the working week with no detriment
- An additional day of annual leave for personal or well-being purposes (with term time only staff also receiving a full day rather than a pro-rata amount, that they can use at any time, including term time)
- A phased approach to reaching a minimum pay rate of £15 an hour in a maximum of two years, sooner if possible
-

On 16 May the National Employers responded to the pay claim 2024/25 making a full and final one-year pay offer for the period 1 April 2024 to 31 March 2025.

The main points of the offer include:

- With effect from 1 April 2024, an increase of £1,290 (pro rata for part-time employees) to be paid as a consolidated, permanent addition on all NJC pay points 2 to 43 inclusive. *The equivalent percentage increases on spinal column point 2 is 5.77%, and for SCP 43 it is 2.50%*
- With effect from 1 April 2024, an increase of 2.5% on all pay points above the maximum of the pay spine but graded below deputy chief officer (*in accordance with Green Book Part 2 Para 5.4*)
- With effect from 1 April 2024 an increase of 2.5% on all allowances (*as agreed in the 2023 NJC pay agreement circular dated 1 November 2023*)

In response to the NJC pay offer the NJC trade unions balloted their members. The results from all three ballots are as follows:

- UNISON members voted 81% to **reject** the NJC 'Green Book' pay offer. On 19th July, the union announced that they will conduct a ballot for industrial action, which is running from 4th September to 16th October

PAY & BENEFITS UPDATES



- The GMB consultative ballot closed on Friday 5 July, and they made an announcement to state that "a majority of GMB members who voted...voted to **accept**" the employers' pay offer to NJC 'Green Book' employees
- Unite members voted to **reject** the offer by 85% to 15%. On 26th July, the union announced a ballot for industrial action and the ballot was live from 27th August to 15th October

We will update the [Support Staff Pay and Allowances](#) pages of the HR Hub the results of the ballots are received.

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.

PAY AND BENEFIT UPDATES

SCHOOL TEACHERS' PAY AWARD 2024/25

Relevant to

Settings where STPCD pay and conditions apply

The Department for Education has confirmed that School teachers and leaders will receive a fully funded 5.5% pay award effective 1 September 2024.

The decision means the recommendations of the [School Teachers' Review Body \(STRB\)](#), which was published on 29th July 2024, have been accepted in full.

The pay award applies to maintained schools, with academies continuing to have freedom over their pay and conditions

The draft STPCD also clarified that where reasonably appropriate and agreed by both the individual teacher and the relevant body, PPA can be taken in one weekly unit, and it can be taken away from the school site

Alongside the pay award, the requirement for schools to use the **performance-related pay system (PRP)** process will be removed from September 2024. This decision won't affect pay decisions this term and will come into effect when pay decisions are made in Autumn 2025.

A copy of the DRAFT STPCD 2024 has been provided to statutory consultees for a period of consultation ending mid-October when the final version of the STPCD is expected to be laid before parliament passing into law on 9 November. Pay awards will be backdated to 1 September.

We do not recommend making any changes to your pay policy until the final version of the STPCD is published.

In early November once the STPCD 2024 has passed into law, school pay policies will need reviewing to reflect the 2024 changes.

Maintained schools that follow the Local Authority Teachers' pay policy, will need to wait until this is published.

Maintained schools that choose to deviate from LA models, and academy trusts, can proceed at their own pace with policy revisions, subject – of course – to undertaking the appropriate local consultation with staff and relevant unions.

SCHOOL TEACHERS' PAY AWARD 2025/26

Relevant to

Settings where STPCD pay and conditions apply

On 30th September, the Department for Education (DfE) wrote to the School Teachers' Review Body (STRB) [asking for recommendations on teachers' pay and conditions for 2025](#) (3 months earlier than has been usual in recent years)

The education Secretary has asked the STRB for recommendations on 2025 teacher pay "at the earliest point", as the new government seeks to move the process earlier in the year to align with school budget cycles. The government's intention is to announce the 2025 upcoming pay awards "as close to the start of the financial year of April as possible.

The education secretary has also asked for views on how the current framework can best support teachers from all backgrounds and with protected characteristics, including by promoting flexible working and for recommendations on whether changes should be made to the pro rating of teaching and learning responsibility (TLR) payments (which are currently pro rated for part time staff) to enable greater flexibility.

As is usual the STRB have been asked to consider the cost pressures that schools are already facing and may face over the year and have regard to evidence of the national state of school teacher and leader supply, including rates of recruitment and retention, vacancy rates, the quality of candidates entering the profession, as well as forecast changes in pupil numbers.

The DfE have also committed to the provision of more frequent and detailed equality, diversity and inclusion data at a national level including the publication of pay and progression data by protected characteristics, to be provided as evidence to the STRB to be provided later this year.

EDUCATION POLICY UPDATES

CHANGES TO TEACHER APPRAISAL & CAPABILITY 2024/5

Relevant to

Settings where STPCD pay and conditions apply

In February 2024 the initial recommendations of the DfE Workload Taskforce highlighted the need to remove the requirement for PRP within the School Teachers Pay and Conditions Document (STPCD), from September 2024, and establish a simpler less time intensive approach to managing performance fairly and transparently. The Department for Education (DfE) issued new guidance and separate template appraisal and capability policies in late July, effective for the appraisal year 2024/5, this followed the acceptance of the recommendations of the School Teacher Review Body on Teachers' pay 2024 which included the removal of the requirement for schools to use differentiated performance related pay (PRP) to determine pay progression. ***From 2024/5 schools the requirement to conduct an appraisal before a pay determination can be made has not been removed.***

Changes to Department for Education Guidance on Teacher Appraisal & Capability

The guidance has been updated in a number of areas:

Professional Development

There is a new focus on the professional development of teachers, with a clear emphasis on support and growth. It is now recommended that teachers are set objectives related to staying updated with teaching methods and research.

Informal Support under the appraisal process

Clarity on the requirements of the employer when providing informal support to teachers who are not meeting expectations is included in the guidance. Informal support should form part of the appraisal process before any consideration of moving a teacher to formal capability procedures. The guidance also provides some examples of informal support such as, mentoring, providing additional training, or developing targeted interventions in areas where a teacher may need improvement.

Wellbeing

A greater priority is given to teacher wellbeing with the guidance recommending that the appraisal discussion covers wellbeing, workload management, and career aspirations.

Workload

The updated guidance also focuses on the need to minimise associated workload and reduce administrative tasks like excessive meetings and paperwork when designing an appraisal process.

Separate Procedures for Appraisal & Capability

The updated DfE guidance makes a clear distinction between appraisal and capability procedures. What was once a combined procedure has been separated. In practice many schools are already operating separate procedures.

There are minimal changes to the DfE capability procedure – we have updated our template capability procedure on the HR Hub so it aligns with the DfE model.

Why have the changes been made?

The DfE is no longer mandating PRP in schools for a number of reasons.

- The Workload Reduction taskforce highlighted the need to establish a simpler less time-intensive approach to managing performance fairly and transparently
- Recent research undertaken by the EEF (Education Endowment Foundation) questions the effectiveness of performance-related pay (PRP) in improving pupil outcomes
- The small impact of performance pay means that schools and policymakers may choose to consider other approaches to attracting teachers to schools – for example, a high quality professional development offer – we can see this new evidence informing the shift from PRP to CPD in the updated DfE guidance
- Other recent research undertaken by the NEU has shown that PRP increases unnecessary tasks for teachers and appraisers – changes to the DfE guidance also mark a shift in emphasis towards focusing on wellbeing and reducing workload, which aligns with DfE efforts to enhance teacher recruitment and retention.

EDUCATION POLICY UPDATES contd.

CHANGES TO TEACHER APPRAISAL & CAPABILITY 2024/25

Relevant to

Settings where STPCD pay and conditions apply

What is the impact of the changes on pay progression?

These changes may impact pay progression within your school as all schools now have the option to remove differentiated performance-related pay and instead apply automatic pay progression for all teachers not subject to capability procedures.

Schools choosing to retain PRP will have the ability to withhold future pay progression for teachers on the grounds of performance as specified in the school's pay policy.

Schools that choose to remove PRP may only withhold future pay progression for teachers if a teacher is subject to capability procedures.

If your school chooses to retain your current pay policy and differentiated PRP, there is no need to consult with staff and unions. However if your schools choose to change your pay policy to bring it into in line with the 2024 STPCD (which no longer requires schools to operate PRP from 2024) consultation will be necessary with staff and unions.

Actions for schools to take now

- **Review current appraisal and capability policies ensuring alignment with the 2024/5 guidance**
- **Consider whether to retain performance-related pay or elements of it**
- **Ensure that your pay policy is updated and complete at the time targets are agreed upon for the next appraisal cycle**
- **Prepare for consultation if making changes to your pay policy**
- **Schedule time for training to ensure everybody involved in the appraisal process has the skills necessary to work effectively**

We have updated our template appraisal, capability and our pay policies for 2024/5 (which are in DRAFT format until the 2024 STPCD is published).

You can also access a recorded [Webinar: 'Changes to Teacher Appraisal 2024/5'](#) to explore this topic in greater depth.

You can find a range of updated guidance via the Appraisal pages of our [HR Hub](#).

EDUCATION POLICY UPDATES

Contd.

CHANGES TO MANDATORY QUALIFICATIONS (SENCOS)

Relevant to

All maintained mainstream schools and mainstream academies and free schools

The SEND Regulations were first introduced in 2008. The mandatory training requirement was designed to address the previous inconsistency of training provision and the amount of preparation individuals receive for this important role.

In April the government confirmed that they had updated the SEND Regulations of 2014 with changes coming into effect from 1 September, with the new regulations superseding the the SEND Code of Practice. Schools are responsible for ensuring compliance with the SEND Regulations 2024, and SENCOs should enrol on the relevant qualification that enables them to do so.

The Department for Education announced in March 2023 that a new national leadership-level professional qualification will replace the existing NASENCO as part of the SEND and alternative provision improvement plan.

From September 2024 the National Professional Qualification (NPQ) is the mandatory qualification for SENCOs.

From September 2024, all SENCOs and aspiring SENCOs will need to take the NPQ if they have not completed or started the NASENCO completing training within 3 years of appointment - **schools and SENCOs must make sure they enrol on training that will meet this requirement**

SENCOs appointed before 1 September 2009 are not required to take the NPQ, but will be expected to ensure compliance with the amended SEN regulations effective September 2024.

You can find updated guidance on this topic on our [HR Resources Hub](#).

KEEPING CHILDREN SAFE IN EDUCATION (KCSIE) 2024

Relevant to

All settings

Keeping Children Safe in Education (KCSIE) 2024 was published on 24 May and came into force on 1 September.

This year there was no consultation period as changes are minimal. Many changes bring KCSIE in line with the Working Together to Safeguard Children guidance (2023).

There are no changes to *Part Three: Safer Recruitment* or *Part Four: Safeguarding concerns or allegations made about staff, including supply teachers, volunteers, and contractors*. These sections have the greatest impact on HR processes and procedures.

There are some changes in *Part Two: The Management of Safeguarding* and *Annex C*, that schools need to be aware of and ensure their HR processes and procedures reflect:

Changes to part Two: The Management of Safeguarding

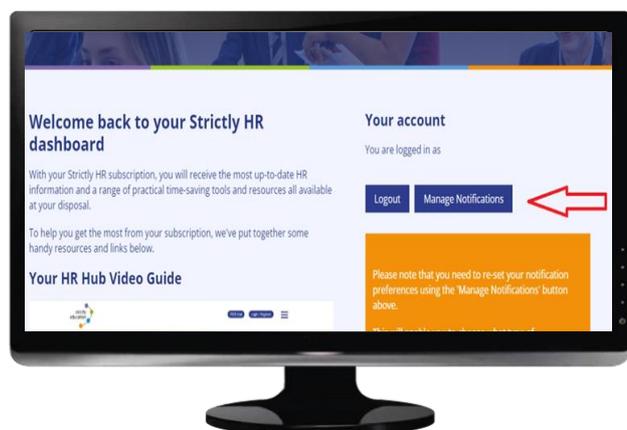
Changes reflect that staff, governors, and trustees should use the Department for Education's data protection guidance for schools to help them understand how to comply with data protection law, develop their data policies and processes, know what staff and pupil data to keep and follow good practices for preventing personal data breaches.

Changes in Annex C

These changes reflect that the Designated Safeguarding Lead (DSL) should keep written records of all concerns, discussions, and decisions, including the rationale for those decisions.

Schools should ensure that they are using the most up-to-date version of the Department for Education's data protection guidance for schools and may wish to consider undertaking an HR Data audit to assess compliance.

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ONLINE TRAINING AUTUMN TERM 2024

Course Title	Date(s)	Time	Price & Booking Link
Managing the Single Central Record	6 November	09:30 - 12:00	£140.00
Managing Difficult Conversations	12 November	09:30 - 12:00	£140.00
Managing Absence and Supporting Staff Wellbeing	13 November	09:30 - 12:00	£140.00
The Foundations of HR in Education – 4 modules	21 November	09:30 - 12:00	£495.00
Safer Recruitment for School Managers	04 December	09:30 - 12:00	£140.00
An Introduction to Equality, Diversity and Inclusion	21 December	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.

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