

Autumn TERM 2023

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.

The timetable for many forthcoming employment law changes remains uncertain. There are, however, some proposals in the pipeline likely to pass into law in the first half of 2024.

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



Changes to Immigration Rules

Relevant to

All schools and education settings

In August the Government announced the tripling of civil penalties for employing someone illegally, from early 2024 fines will increase from £15,000 per worker to £45,000 per worker. Penalties for repeat breaches are due to rise from £20,000 to £60,000 per worker.

In light of this harsher regime, it is essential that right-to-work checks are completed before employment commences and that any 'time-limited' permissions to work in the UK are subject to follow-up checks.

Ensuring compliant 'right to work' checks are undertaken before an individual starts work allows employers to obtain a 'statutory excuse' that provides protection against being charged a civil penalty if it later transpires that an employee does not have the right to work. Schools must carry out appropriate repeat checks at the point at which an employee's time-limited right to work expires in order to maintain the 'statutory excuse'.

If your school holds a sponsorship license to employ overseas nationals, you risk having this revoked if you fail to comply with right-to-work requirements.

Other future proposals include increases to UK immigration fees in relation to work visas by 15% and an increase to the costs of assigning certificates of sponsorship by 20%. We would recommend mitigating the impact of future increased costs by:

- Applying as soon as possible
- Switch to a 5-year sponsorship period (to avoid paying higher fees to extend immigration permission after 3 years)
- Use alternative options (e.g., training settled workers)
- Focus on staff retention strategies

Schools who have initially sponsored a worker may be reluctant to extend sponsorship given the costs. If they do not do so and the individual is unable to switch to another immigration category, they would need to terminate the employee's employment. This could give rise to claims for unfair dismissal and/or indirect race discrimination so it's important to take advice first.

Preparing for a Right to Work Audit

Relevant to

All schools and education settings

A Right to Work Audit may be conducted by the Home Office at any time. In light of the increasingly severe penalties employers may be liable for we have summarised here some steps you can take to try and avoid them;

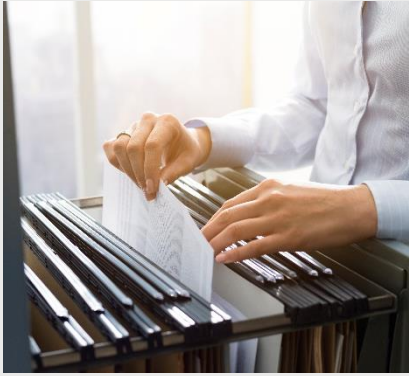
- Ensure your recruitment process is robust and that you consistently obtain a statutory excuse for each worker
- Maintain accurate records and ensure paper records cannot be manually altered
- Ensure internal systems can identify expiration dates of permissions to work in advance to allow you to implement follow-up checks in good time
- Conduct your own regular internal audits to ensure compliance
- Stay updated on Home Office policy developments in this fast-moving area of employment law

You can sign up for notification emails on the relevant pages of [Gov.uk](https://www.gov.uk) and we will also publish pertinent updates as latest news items on our [HR Resources Hub](#).



EMPLOYMENT LAW UPDATES

(cont.)



Managing Workers' Health Information

Relevant to

All schools and education settings

The Information Commissioners Office (ICO) has recently updated its guidance for employers in relation to their data protection obligations when handling the health information of workers. It covers the law and good practice and provides examples of common employment practices in relation to the processing of workers' health information such as:

- Lawful processing, storing, and sharing of sickness & absence records
- Managing data in respect of OH schemes
- The use of medical examinations as part of a recruitment process
- Best practice around sharing health information

You can access the updated guidance here:

[Information about workers' health | ICO.](#)

Other recent employment law updates:

Relevant to

All schools and education settings

- **The Workers (Predictable Terms and Conditions) Act 2023** has received royal assent. It gives workers, including agency workers and zero hours workers the right to request more predictable terms and conditions including work pattern. The provisions of the Act are subject to regulations being introduced but we do not have a date for this currently.
- **High Court ruling that regulations allowing the use of agency staff to cover those on strike to be unlawful in July 2023** - these regulations were repealed in July 2022. Schools will need to ensure that their mitigation plans for strike days do not include the use of agency workers and agencies will run the risk of criminal charges if they supply this type of worker. The Government may issue an appeal, if so this will be a lengthy process. You can find more detail on the latest news pages of our [HR Resources Hub](#).
- **The Employment Relations (Flexible Working) Bill** has been passed and is expected to come into force in 2024. You can find detailed information regarding the forthcoming changes on the family-friendly rights pages of our [HR Resources Hub](#).
- **The Worker Protection (Amendment to Equality Act 2010) Bill** is being introduced to place a proactive duty on employers to make reasonable steps to prevent harassment of their employees with the possibility of increased compensation if they fail to do so
- **Paternity Leave** changes are on the horizon. In June the Government announced plans to allow all eligible fathers to take their paternity leave and pay in two separate block of one week at any point in the first year rather than the current 56 days. The proposal also includes reducing the required notice to take the leave from 15 weeks to 28 days before the leave will be taken. These changes are anticipated to be from April 2024.

For information regarding forthcoming employment law updates visit the legislation tracker on our [HR Resources Hub](#).

SCHOOL TEACHERS' PAY AWARD 2023/24

Relevant to

Maintained schools, PRUs, and most academies

On 13th July the DfE issued several communications around Teachers' pay including the School Teachers' Review Body 33rd report: 2023, a joint statement on Teachers' pay issued by the Prime Minister, the Education Secretary, the General Secretaries of the four education unions and General Secretary Elect of NEU, and a new service Calculate Teacher Pay for school teachers and leaders in England to use to see how their salary could change following the 2023 pay award.

- The government has accepted the School Teachers' Review Body (STRB) recommendation of a 6.5% pay raise for teachers (including school leaders) in England from September 2023
- Teacher starting salaries outside London and the fringe will reach £30,000 from September 2023 meaning teachers outside of London and in Outer London areas will see a 7.1% and 6.8% rise respectively compared with 2022
- 3% of the pay rise will be covered by additional DfE funding, while schools will be expected to meet the rest of the rise (3.5%) through existing budgets
- A hardship fund of up to £40 million is available to support those schools facing the "greatest financial challenges"

Consultation with statutory consultees ended on 21st September. The final version of the STPCD is due to be laid before Parliament in mid-October and come into force 21 days later (assuming no parliamentary amendments are made). The pay award will therefore need to be backdated to 1st September 2023.

We have updated our information and resources in line with these proposals and these can be accessed by HR customers on our [School Teachers' Pay Award 2023](#) web page.

Draft pay policies can be accessed via our [HR Resources Hub](#). Many maintained schools have regard to their local authority's model pay policy for teachers (where one is produced) and these will be being updated further to a process of consultation with the recognised teacher unions. The timetable for these discussions will vary locally but typically may not conclude until sometime in October 2023.

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

PAY & BENEFITS UPDATES



GREEN BOOK / NJC PAY NEGOTIATIONS 2023/24

Relevant to

Settings where Green Book / NJC pay and conditions apply

On 17th August the National Employers again reaffirmed the local government services 'Green Book' offer as full and final and urged the unions to now settle this years pay round in response to another request from the NJC unions for an improved offer.

Unison have secure a strike mandate however they are waiting for Unite to confirm its results. GMB's strike ballots close on 24th October.

The offer remains, with effect from 1 April 2023:

- 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 3.88% on all pay points above the maximum of the pay spine but graded below deputy chief officer
- an increase of 3.88% on all allowances

We continue to advise very strongly against imposing any pay offer before the collective bargaining process has concluded.

EDUCATION POLICY UPDATES

Relevant to

All schools and education settings

- The government has updated the [Multi-academy trust leadership framework](#) which outlines the knowledge, skills and behaviours that chief executive officers need to effectively lead a large trust
- **A new [taskforce](#) has been created to tackle teacher workload.** The government has recently announced the membership of the taskforce working towards reducing teacher and leader workload, alongside support to embed flexible working. The taskforce group of 14 will include unions, teachers, and sector leaders, and will help support the government's wider ambition to reduce working hours for teachers and leaders by five hours per week within three years. The launch of the workload reduction taskforce follows the 6.5% pay award announced in July when the Education Secretary committed to reducing teacher and leader workload.
- **Practical support for flexible working** is available in the updated DfE flexible working toolkit. The toolkit was first published in June of this year and resources explain how and why schools should introduce flexible working- one of most initial use to schools and trusts will be the [Implementing flexible working](#) document that provides a start-to-finish process including all the things to consider when looking at introducing flexible working. Additional updates were made this month including a link to the toolkit and a list of the sector experts who helped develop it.



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.

Keeping Children Safe in Education (KCSiE) 2023 effective 1st September 2023

Relevant to

All schools and education settings



The statutory guidance document, [Keeping Children Safe in Education 2023](#), was published on 6 June, with changes coming into effect on 1 September 2023. Changes affecting HR processes are minimal and include:

Changes to Part Two: Management of Safeguarding

- Staff training should include understanding roles and responsibilities in relation to children's exposure to online harm and filtering and monitoring risk from IT systems, should be undertaken at induction, then regularly updated

Changes to Part Three: Safer Recruitment

- Clarifying it is good practice for schools to inform shortlisted candidates that online searches will be carried out and confirmation that copies of documents used to verify the successful candidate's identity, right to work and required qualifications should be kept on the personnel file

Changes to Part Four: Safeguarding Concerns/ Allegations

- Clarifying that schools should follow their safeguarding policies and procedures, in the event of any allegation occurring when an individual or an organisation was using their school premises to run activities for children. Specification that records of such allegations (except for those that are found to be malicious or false) should be held and retained at least until the accused has reached normal pension age, or for 10 years from the date of the allegation if that is longer, as is required of allegations made against your staff. (Previously the guidance simply referred directly to the ICO published guidance on employment record retention)

There were a couple of updates to the final version which we would like to draw to your attention:

- The section on **Filtering & Monitoring** - there is now additional information in paragraph 142 about the appropriateness of filtering and monitoring systems online
- In the section on **Inspection** - paragraph 150 states that in addition to the framework and inspection handbooks, there is now an [Ofsted YouTube channel](#) providing webinars on a range of topics that may help schools and colleges meet their safeguarding requirements.

ONLINE TRAINING AUTUMN TERM 2023

Our training schedule for the Autumn Term 2023 is detailed below. Training is delivered online, providing greater flexibility to school employees, particularly during these challenging times. All our courses are designed specifically for staff working in schools

Course Title	Date(s)	Time	Price & Booking Link
Safer Recruitment for School Managers	19 October	9:30 - 12:00pm	£140
Managing the Single Central Record	2 November	9:30 - 12:30pm	£140
The Foundations of HR in Education	7, 9, 14 & 16 November	9:30 - 12:30pm	£495
Managing Absence and Supporting Staff Wellbeing	21 November	9:30 - 12:30pm	£140
An Introduction to Equality, Diversity and Inclusion	23 November	9:30 - 12:00pm	£140
Managing Difficult Conversations	28 November 2023	9:30 - 12:00pm	£140
Managing the Single Central Record	5 December 2023	9:30 - 12:30pm	£140

October 10 is World Mental Health Day

Why not browse the resources on our open-access [Wellbeing at Work Hub](#)?

LOOKING FOR SOME FREE HR CPD?



Our series of webinars offer free, short – usually 30-minute presentations delivered by experienced HR Consultants on a broad range of topics.

Webinars provide a practical and efficient method to help you stay up to date in terms of workforce-related topics, education policy developments, pay updates, regulatory changes and more.

Our customers consistently find webinars the single best tool to deepen their knowledge:

'Very informative and pitched at the correct level'

You can access the webinar library on demand. Topics covered include the effective management of capability, restructuring, redundancy, absence, probation and wellbeing.

Click [here](#) to see what's on offer.

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