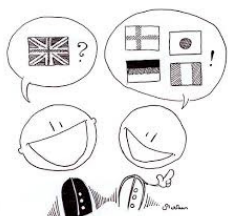


### Fluency in the English Language

All staff who work in the public sector in a customer facing role have to be able to speak English at an appropriate level of fluency. A new Code supplementing this has just been released ([www.gov.uk](http://www.gov.uk)) and we recommend that you check what roles might be affected by this duty, whether all staff meet the requisite standard and, if any don't, matters are handled sensitively with training and support.



Schools should note that this duty will apply to them. Although it seems to be already incorporated into the Teaching Standards, they will need to check their other staff as well.

### Coasting Schools Regulations

The Coasting Schools (England) Regulations 2017 come into force on 11 January 2017 and set the definition of a coasting school for the purposes of the Education and Adoption Act 2016. This will allow the Secretary of State to take action for the first time to support such schools to improve performance. The Regulations can be found here:

<http://legislation.data.gov.uk/ukxi/2017/9/made/data.htm>

### Sex and Relationship Education Briefing Paper published

Last month the House of Commons Library published a briefing paper providing an

overview of the legislation and guidance currently in place regarding sex and relationship education (SRE) in schools in England.

The paper outlines the statutory requirement for local authority maintained schools to teach SRE from age 11 upwards and have regard to the government's SRE Guidance.

Academies and free schools do not have to follow the National Curriculum and so are not under this obligation but if they do decide to teach SRE, they also must have regard to the guidance.

The paper provides an extensive background to reviews and enquiries into the quality of SRE teaching across the education system, and proposals to introduce compulsory SRE, either as a stand alone subject, or within a statutory requirement to teach personal, social health and economic education (PHSE).

The paper also includes:

- An overview of what must be taught in a programme of SRE.
- A discussion of the right of parents to withdraw their children from SRE.

Suggested reforms to Independent School Standards, including teaching about same-sex marriage.

The briefing paper can be found here:

<http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06103>

## Special Education Needs Tribunal should only specify type of school if there is parental dispute over specific school

In a recent case, parents were separated. Their daughter, E, lived with her mother but spent time with her father. A Special Educational Needs Tribunal had named a school on E's Special Educational Needs (SEN) statement which the mother preferred but the father objected to. The father appealed the decision and the appeal tribunal concluded that, while the SEN Tribunal can consider the reality of E's care arrangements, it cannot become enmeshed in parental disputes about a preferred school. The LA and SEN Tribunal should only name the *type* of school. The parental dispute must be dealt with by the Family Court. Naming the type of school could assist the Family Court in deciding which school is in the child's best interests.

## Insurance

Please check your insurance policies. We have noticed a trend that schools have had insurance claims rejected. It is crucial that the wording of the policy is checked, before it is taken out, to see if there is a risk of any previous rights and coverage being lost on renewal or on change of provider and that



any limitation or exclusion clauses that prevent or restrict a claim are checked. We also recommend that you double-check any demands and that needs statements reflect what you actually require. Some do vary tremendously on the detail and schools that have the ability to transfer staff (e.g. within multi-academy trusts or federations etc.) should check to see whether this impacts on their ability to make a claim.

## Appeal in term-time holiday case

The Isle of Wight Council has been granted permission to appeal to the Supreme Court

against the High Court ruling in May 2016 in the *Platt* case about term-time holiday prosecutions. The Council is appealing



following a formal request for it to do so from the Secretary of State for Education, who is funding the appeal and will seek to be joined as an interested party. The hearing is scheduled to take place on 31<sup>st</sup> January but it is likely that the court will not publish its judgment until a few weeks after this date.

A recent report found that nearly one in three school leaders (31%) have reported an increase in the number of applications for term-time absences since the case. It also stated that 42% of primary school leaders reported an increase in applications, compared to 30% for secondary schools.

83% of school leaders said the judgment had had no effect on the number of applications they had granted.

67% stated the case had had no effect on the number of parental fines issued as a result of breaches. Only 18% said the number of fines they had issued had decreased.

## Ombudsman finds undue delay in SEN case

A recent report from the Ombudsman regarding the provision of Special Educational Needs to schools reinforces the message that they must act promptly to ensure that, if an annual review of a SEN Statement is held, the review report should be sent to the Council in a timely manner. The failure to do so in this particular case (involving Somerset County Council) meant that the council delayed its decision about whether the statement remained effective or needed to be amended, leaving the child without much needed language therapy and occupational therapy support for several months.

## Headteacher safeguarding

A Court of Appeal case has dealt with a very difficult situation where a Headteacher had been dismissed because he failed to disclose that he was in a close personal relationship (but not cohabiting) with someone who had been convicted of downloading indecent images of children on to his computer. The Court by majority decision held that the dismissal for gross misconduct was fair due to the safeguarding concerns. However it emphasised that how the school handled the situation was the concern and that it was inevitable that an employee should be dismissed. It should be noted that every case hinges on its own facts although there was a similar decision to dismiss a primary school teacher who failed to disclose that her partner had also downloaded images.

It would seem sensible for schools to set out their expectations about what declarations they expect in relation to partners/husbands/wives etc and how they should go about this.

Also, the approach to risk to children needs to be realistic, although as stated above, it seems that the Courts are prepared to factor in the assessment when and how matters were disclosed. That said, it does feel that the Courts do treat the safeguarding of children as paramount.

## Government drops "forced academisation" legislation

The new Education Secretary, Justine Greening, recently confirmed that the Education Bill announced in the Queen's Speech had been abandoned. The Bill would have forced schools to become academies

and, to a large degree, removed the role of councils in driving up standards in education.

She said:

*"Our ambition remains that all schools should benefit from the freedom and autonomy that academy status brings. Our focus, however, is on building capacity in the system and encouraging schools to convert voluntarily. No changes to legislation are required for these purposes and therefore we do not require wider education legislation in this session to make progress on our ambitious education agenda".*

However, other changes could still lie ahead. The "Schools that Work for Everyone" consultation, which closed on 12 December, has put forward proposals that include

- expecting independent schools to support existing state schools, open new state schools or offer funded places to children whose families can't afford to pay fees
- asking universities to commit to sponsoring or setting up new schools in exchange for the ability to charge higher fees
- allowing existing selective schools to expand and new selective schools to open, while making sure they support non-selective schools
- allowing new faith free schools to select up to 100% of pupils based on their faith, while making sure they include pupils from different backgrounds

The Government is expected to publish a White Paper later this year setting out the detail of their proposals.

**Contact details** If you have any queries relating to this newsletter or wish to seek education advice or discuss training needs, please contact:  
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