

School Teachers' Pay and Conditions



The DFE has updated its guidance on how schools and Local Authorities should approach the issue of pay for teaching staff (www.gov.uk). The main points are as follows:

- School pay policies must make performance-related progression the basis for all decisions on pay – for classroom teachers and leaders.
- School appraisal policies must reflect the links between performance and pay.
- Pay and appraisal policies should minimise the impact on workload for individual teachers, line managers and headteachers.
- Schools should review their pay and appraisal policies annually to clarify their approach to making performance-based pay decisions and to set out the extent to which any uplift to the national framework will be taken into account when making any individual pay decisions.
- When designing school pay and appraisal policies, school leaders may wish to refer to the Department's school workforce planning guidance and flexible working in schools guidance.
- All pay decisions must not breach the Equality Act 2010.
- It is up to each school to decide for itself how best to implement the arrangements and develop its policies accordingly and it recognises that no single approach will suit all schools.
- Schools are under no obligation to increase an individual's pay unless it is warranted by performance in accordance with their pay policy – schools are free to withhold progression pay without any requirement to initiate or consider capability proceedings.
- Schools need to tailor their pay policies to meet their local recruitment and retention needs.
- Schools are free to make appointments above the minimum of a pay range and to use recruitment and retention payments to attract and recruit the teachers that they need.
- There should be scope, where justified by consistently excellent performance, for the most able teachers to progress rapidly.
- Schools have flexibility to decide how they wish to reward their leadership teams to reflect individual performance and the challenges of the post.

- The pay of headteachers or leadership teams in post only have to be reviewed when there have been significant changes to responsibilities.

- The principles underlying the core non-pay conditions remain unchanged.

School Successfully Challenged OFSTED



rating

Durand Academy Trust successfully challenged an OFSTED assessment where it had been rated as inadequate having previously been rated as either good or outstanding. The Trust argued that the assessment was unreasonable as it did not reflect the reality of how the School performed and the OFSTED report was vitiated by unfair and arbitrary evaluations, factual errors and "a relentless accentuation of the negative and elimination of the positive". Furthermore, the OFSTED complaints procedures precluded a challenge to the substantive findings. The High Court quashed the report as it was unacceptable to have no way to effectively challenge a finding. It did not accept the Ofsted argument that it was not in the public interest for schools which, following a rigorous and independent inspection, had been found to have serious weaknesses, to be able to delay the publication of the outcome, and that its quality assurances processes were sufficient. Although not essential for this ruling, the judge felt that the report that OFSTED had produced was 'somewhat simplistic' given that within 3 years the rating had gone from outstanding to inadequate.



Department
for Education

DFE- New funding formula

On 14 September 2017, the final National Funding Formula for schools (NFF) for 2018-19 and 2019-20 was published ..

The NFF will provide funding gains for schools across England, allocating:

- An increase in the basic amount allocated for every pupil.
- A minimum per pupil funding level for both secondary and primary schools to target the lowest funded schools.
- A minimum cash increase for every school of 1% per pupil by 2019-20, with the most under-funded schools seeing rises of 3% per pupil in 2018-19 and 2019-20. A lump sum of £110,000 will also be allocated for every school to help with fixed costs, with an additional £26 million allocated to rural and isolated schools to help them manage their unique challenges.

Whilst every effort has been made to ensure that the content of this newsletter is up-to-date and accurate, no warranty is given to that effect and nplaw does not assume responsibility for its accuracy and correctness. The newsletter summarises latest legal developments but is no substitute for specific legal advice after consideration of all material facts and circumstances.

Race Disparity Audit



The Government's Race Disparity Audit data has some commentary on education data:

- Pupils from Chinese and Indian backgrounds showed high attainment and progress throughout their school careers and high rates of entry to university;
- Pupils from Gypsy and Roma, or Irish Traveller background had the lowest attainment and progress, and were least likely to stay in education after the age of 16;
- Although pupils in the Black ethnic group made more progress overall than the national average, Black Caribbean pupils fell behind. White British pupils and those from a Mixed background also made less progress than average;
- White British and White Irish pupils who were not eligible for free school meals were around twice as likely to attain A*- C in maths and English GCSEs as those who were eligible;
- Pupils from Pakistani and Bangladeshi backgrounds are achieving almost as well as, and progressing better than, White British pupils, whereas the attainment and progress of Black Caribbean pupils is much lower;
- White pupils from state schools had the lowest university entry rate of any ethnic group in 2016;
- Of all regions in England, the most educational progress and best attainment in state primary and secondary schools was found in London, where more than half of pupils were from ethnic minority groups. Disadvantaged pupils in receipt of free school meals in London made more progress and had higher attainment than their counterparts elsewhere in England.
- We would expect that as a consequence of these findings, that further specific guidance will be forthcoming in order to comply with the Public Sector Equality Duty.

Equality and Diversity



The Government Equalities Office has recently announced the launch of an initiative funding projects in primary and secondary schools intended to educate pupils and prevent bullying on the grounds of sexual orientation or gender identity (that is, to prevent homophobic, biphobic and transphobic bullying).

Primary School Accountability in 2017



The DFE has provided guidance (www.gov.uk) on how primary schools will be held to account and how school's progress scores will be calculated. No school will be confirmed as being beneath the floor until December 2017 when performance tables will be published. This document contains a lot of technical guidance as to how it works and the circumstances when the floor standards don't apply. Obviously, a lot of work will have to be done to ensure that children achieve these English and Maths targets.

School Transport Policies



On 8 September 2017, Contact, a children's disability charity, a report on school transport for disabled children in England. The report stated that over half of local school transport policies in England included unlawful statements or other restrictive criteria. In light of this, we would urge you to check your transport policies out.

Invitation to Data Protection For Schools training course

The new Data Protection Bill was introduced in to Parliament recently and will replace the Data Protection Act 1998 to provide a comprehensive legal framework for data protection in the UK supplemented by the General Data Protection Regulation (GDPR) until the UK leaves the EU.

We recognise that you may like an opportunity to hear about the key principles and how these will affect the way your school is run. **nplaw will hold a training session on Friday 24th November 2017 at Center Parcs, Elveden Forest, Suffolk, led by our senior lawyers and we would be delighted if you could attend.** We will introduce you to the main points of interest and there will be plenty of time for questions. *The cost is £125 + VAT per person.*

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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