



NYHR News



Welcome

Welcome to our Summer term issue of NYHR News. As ever, we hope that you find Newsletter informative and helpful. You will see that safeguarding and all things safer recruitment continues to be a headline topic with a few changes to be aware of and actions arising.

For anyone who missed it, we would like to take the opportunity to remind you of our 'Special Edition' on staff Health and Wellbeing which has received some excellent feedback and can be found [here](#). It includes practical resources and signposts which will help to support you and your valued staff look after themselves.

We wish you and your whole school community a happy and healthy Summer term and let's hope the sun starts to make a more consistent appearance.

Safeguarding update

Barred list check for children

Additional functionality has been added to the Teachers' Services on-line portal which enables schools to undertake a separate barred list check. Previously, the barred list was only checked through the enhanced DBS application process.

The statutory position with regard to barred list checks has not changed and it is an offence to check people against the list where there is no right to do so. This would include those not working in regulated activity (e.g. governors, supervised volunteers, etc.) or before an offer of employment (e.g. checking all shortlisted candidates prior to interview). An unlawful check could lead to prosecution and a significant fine due to a breach of data protection.

Schools and Trust's are advised to continue checking the Barred List for Children through the DBS process and only use the Teachers' Services portal in limited circumstances. For example, in exceptional circumstances where an individual starts work prior to the return of their DBS or where the information is missing from the SCR and a record of the original check is not available on file.



Action

- Note the availability of a separate barred list check and the limited circumstances where it may be used

In this issue

Safeguarding update:

[Separate barred list checks](#) – now available through DfE portal

[Safer recruitment and SCR webinars](#) – more webinars coming soon

[SCR guidance](#) – updated guidance and revised template SCR

[Recruitment & Selection Policy](#) – changes following Brexit

Employment Law Update:

[IR35 changes](#) – new requirements from April 21

[Pension impact of McCloud](#) – changes expected following Government consultation

[Statutory pay increases](#)

Other items:

[Early Career Framework](#) – staffing impact of the new arrangements

[Spotlight on fixed-term contracts](#) – issues to consider when contracting ECTs

[Policies coming soon](#) – expected updates

[Jubilee Bank Holiday](#) – impact of extra Bank Holiday next year

[2021/2022 Pay update](#) – Employers response to Union pay claim for support staff

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Safer Recruitment and Single Central Record Webinars

NYHR has recently led the delivery of three webinars to North Yorkshire schools and Academies around Safer Recruitment and the Single Central Record (SCR) with over 300 attendees. The sessions focussed on ensuring statutory compliance and best practice around safer recruitment processes and the format and content of the SCR. Three more dates have been set for late May and early June and can be booked through the [NYES](#) website.

Following the earlier training events, a Q&A document has been produced and is available on [CYPInfo](#).



Action

- Sign up relevant school staff for this free webinar through the [NYES](#) website

Single Central Record Guidance

We have refreshed our [SCR guidance](#) and published both a maintained version and one which is specific to Academy Trusts, Independent and free schools.

As part of this review, following customer feedback, we have introduced a new, more user friendly [SCR template](#) in Excel to replace the previous Word template. Where the Word version of the SCR is currently used, there is no requirement to transfer to the new Excel template; schools and Trusts can make their own decisions about the format of their SCR.

The NYHR team can be commissioned to provide an SCR Checking service. Further information is available [here](#).



Action

- Ensure the school's/Trust's SCR is consistent with the SCR template and all statutory requirements are captured

Recruitment and Selection Policy

This policy has been updated to include the requirement to obtain a Letter of Professional Standing for newly appointed teachers who have taught overseas (see [NYHR News – Issue 4](#) for further information). A tracked changes version of the policy is available to help schools and Trusts implement the amendments.



Action

- Progress updated policy for adoption in line with school's/Trust's usual practices.

Jubilee Bank Holiday

To celebrate the Queen's platinum jubilee, the late May bank holiday in 2022 will be moved to Thursday 2nd June and an additional day will be granted on Friday 3rd June.

For many schools, these will both fall within the May half-term break. However, the DfE had indicated their intention to amend the STPCD for 2021/2022 to reduce the number of pupil contact days to 189 to ensure teaching staff benefit from an additional day's leave within the year. Where schools/Trusts apply the STPCD they may need to revisit their 2021/2022 term dates to reflect the correct number of pupil contact days. We will also provide further guidance around any impact on part-time employees in due course.

2021/2022 Pay update

The following will apply for those schools and Trusts who apply the Green and Burgundy Books and the STPCD:

- STRB recommendations awaited but most teaching staff unlikely to receive an inflationary rise
- Support Staff covered by the Green Book are unaffected by the national public sector pay freeze
- The trade unions submitted a pay claim for a 10% increase on all pay points and a range of changes to other terms and conditions
- The employers' responded with an offer of 1.5% on all NJC pay points and a commitment to complete the outstanding work of the joint term-time only review group
- A response from the Trade Unions is now awaited
- When agreement is reached, it will be backdated to 1 April.



Employment Law Update

Intermediaries Regulations (IR35) for off-payroll workers

Schools and Trusts will be familiar with the above regulations where hirers are required to determine the employment status of workers and whether the engagement falls within IR35 regulations. If they do, payment to the worker must progress through a PAYE payroll, either directly or through an agent.

From April 2021 this requirement has been extended to the private sector, and, as a result of updated regulations there are changes for the public sector including schools and Trusts. These are:

- the requirement to provide the worker with a status determination statement (SDS) before commencement of an assignment (including all agency workers)
- the need to provide a process to deal with the situation where workers disagree with the status determination statement

These arrangements apply from 1 April 2021, for all new and ongoing engagements, where the individual is not directly employed by the school/Trust. This includes supply staff, contractors and consultants whether through an agency, another organisation or self-employed. In each case, schools/Trusts should:

- Satisfy themselves on the worker's [employment status](#). If the school/Trust determines they are genuinely self-employed no further action needs to be taken
- Complete the IR35 assessment using the [HMRC online tool](#)
- Record the determination and provide a copy of the HMRC employment status indicator to the worker and agency (if hired through a third party)
- Provide details of how the worker may challenge the determination. For schools and Trusts, it is suggested that this is done through their existing complaints procedures
- If a worker disputes the decision, the school/Trust has 45 days in which to reassess their decision and provide a response

We have updated our guidance around IR35 and this is available on our Recruitment page on CYPInfo or through this [link](#).



Action

- Ensure all staff involved with engaging workers are familiar with the new requirements
- Consider whether any changes are required to school/Trust practices or policies as a result of the changes

Pension impact of the McCloud decision

McCloud was the leading case for a number of successful legal challenges made in 2018 where it was found that the transitional arrangements within public sector pensions constituted unlawful age discrimination. The discrimination arose in relation to the protection that members close to retirement received which was not available to new and younger members.

Having considered the consultation responses, the Government have decided to implement the 'deferred choice underpin'.

This means that eligible scheme members will be able to choose to receive final salary or career average scheme benefits for the period of discrimination, 1 April 2015 - 31 March 2022, at the point that they take their pension benefits i.e. on retirement.

From 1 April 2022, all public sector schemes will exclusively be CARE schemes (Career Average Revalued Earnings).

The government will bring forward new primary legislation to deliver these changes in due course.

Further information is available via these links for members of the [Local Government Pension Scheme](#) and the [Teachers' Pension Scheme](#).

April '21 Statutory Payment Increases

Statutory parental leave payments (maternity, adoption, shared parental pay) - **£151.97**

Statutory sick pay - **£96.35**

Maximum weekly amount for statutory redundancy pay - **£544**



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Early Career Framework

As part of the DfE's recruitment and retention strategy, the Early Career Framework (ECF) sets out the new arrangements for the statutory induction of teachers from September 2021. The latest DfE guidance is available [here](#).

Independent schools, Academies and free schools are not required to offer statutory induction to their early career teachers (ECT) and teachers do not need to have completed statutory induction to work in one of these settings. However, it is anticipated that most schools and Trusts will apply the new arrangements, as they did for NQTs. Where they choose to do this, Trusts and schools must adhere to the regulations and have regard to the statutory guidance.

The main staffing related elements of the reforms are:

- The standard length of induction will be two school years
- The term early career teacher (ECT) will replace NQT
- Part-time ECTs will have an induction period equivalent to them having worked two full school years
- A 10% timetable reduction in year 1 and 5% reduction in year 2
- Defined roles for tutors, mentors and Appropriate Bodies
- Some elements of the offer will be centrally funded

Where schools and Trusts follow the STPCD, 2-year induction should have no impact upon ECT's pay; they should be considered for pay progression in September each year following assessment against the Teachers' Standards upon which the ECF is based. Where Trust's and schools have specific provisions relating to NQT pay within their pay policy, these should be reviewed to ensure they are appropriate for ECTs under the new framework.

The DfE guidance details transitional arrangements for ECTs who started induction prior to 1 September 2021. These teachers will have until 1 September 2023 to complete induction within three terms and the existing arrangements will continue to apply to them. However, schools and Trusts are encouraged to have regard to the new guidance for these new ECTs, e.g. an ECF-based induction and a mentor for the remainder of their one-year induction.

We are reviewing our template policies to ensure that the terminology is updated and to identify if any wider amendment is required. Amended policies will be available for September adoption.



Action

- Ensure relevant staff are conversant with the new arrangements
- Consider transitional arrangements for current NQTs who will not finish induction before 1 September 2021

Policies coming soon

Recruitment and Selection – due September 21 - Implementing any changes made to Keeping Children Safe in Education from September 2021.

Impact of the Early Career Framework for teachers – due September 21. Policies affected: Appraisal, Capability, Developing Performance, Probation and Pay.

Restructure, Redeployment and Redundancy – due September 21. Delayed due to the introduction then removal of the £90k cap.

Spotlight on fixed-term contracts and ECTs

Whilst not always recommended practice, we recognise that some Trusts and schools employ teachers on fixed term contracts linked to their statutory induction period. Caution should be exercised to ensure any such contract has suitable provision for early termination, should this become necessary, to avoid any claims of breach of contract or wrongful dismissal.

Trusts and schools are also reminded that teachers completing a two year fixed term contract will gain employment rights at its end, including the right not to be unfairly dismissed. Redundancy rights may also have accrued. The end of a fixed-term contract is a dismissal in law and therefore a statutory fair reason for dismissal must exist and a fair process followed.

Further advice on the use of fixed-term contracts is available from your NYHR advisor.