

NYES HR News

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Welcome

It's the start of a new academic year and as ever there is plenty to inform and update you on.

This issue of the termly NYES HR Newsletter has many and varied subjects to consider; from important pay-related announcements, changes to statutory government guidance to future training dates for the diary.

In the last article of the Newsletter we explore lessons that can be taken from a recent employment tribunal case relating to discrimination arising from disability, bearing in mind recruitment processes and the support that is offered to employees and applicants requiring workplace adjustments.

We hope you find the information provided a useful reference as the new academic year begins and the term progresses. Don't forget to look out for the NYES HR Annual Review, which will also be published later this term.

Keeping Children Safe in Education 2022

Online Checks

Keeping Children Safe in Education (KCSiE) is regularly updated and covers a variety of matters including obligations on schools, colleges and academies relating to staff and recruitment. A notable change in the 2022 guidance relates to carrying out 'online searches' for prospective job candidates;

“In addition, as part of the shortlisting process schools and colleges should consider carrying out an online search as part of their due diligence on the shortlisted candidates. This may help identify any incidents or issues that have happened, and are publicly available online, which the school or college might want to explore with the applicant at interview”.

(KCSiE 2022, Part 3: Safer Recruitment, paragraph 220)

The purpose of these checks is to identify any incidents or issues which may have happened and are publicly available online, which may need to be explored further at interview.

At this time, there has been no further clarity from the DfE on what an “online search” means or how an employer should go about undertaking one, but as the new KCSiE has come into force, Resourcing Solutions and NYES HR have worked together to review current processes and produce new guidance and resources to support you with this new aspect of safe recruitment and safeguarding.

Following Union consultation, the revised documents will be made available shortly on [CYPS.info – Human Resources](#) and have all been designed to help you ensure robust recruitment practices are in place and to minimise the risk of claims relating to discrimination within your processes.

Local Government Pay

Decision to implement the NJC pay award in September 2022 in maintained schools

As a matter of courtesy we wanted to update Academy colleagues with schools in North Yorkshire about a recent pay award decision taken that affects all council employees, including NJC staff in maintained schools.

You will be aware that In July 2022 National Employers confirmed a final offer of an additional £1,925 annually on all pay points, and a 4.04% increase on NJC allowances. Unite have rejected this offer while Unison and GMB have chosen to run consultative ballots. After consultation with the Unison North Yorkshire Branch, it has been agreed to pay all council employees covered by NJC negotiations; including NJC staff in maintained schools; the employers' final offer (as above).

This will be paid to NYCC staff in September, together with any arrears due back to April 2022, ahead of the final national agreement and roles will be advertised at the new increased rates. The national pay award will be paid in full as and when it is agreed, and any difference between that and the employers offer which is now being applied, will be paid and again backdated to April.

By way of illustration, £1,925 is equivalent to an extra 10.5% at the bottom of the pay scale (for example cleaners), 10% for Grade C/D (for example GTAs, ATAs and some administrative roles in schools) tapering to 4% at Grade N.

The main reasons NYCC has taken this approach relates to recruitment and retention of staff in a time of significant cost of living increases. Of course, there is no need for other employers to do the same but, for those that have schools in North Yorkshire, the fact that NYCC maintained schools will be advertising higher rates until a national agreement is reached may be a factor which warrants some consideration within your organisation. As your HR provider, we wish to give you early notification of this recent NYCC decision and the impact it may have.

As an Academy/ Trust, if you wish to adopt a similar approach, the ability to implement as detailed above will be dependent on a number of factors such as your union negotiation arrangements and location of schools within the Trust (those that cross authority areas). If you wish to discuss the approach for your specific organisation please do not hesitate to contact your HR professional for advice and guidance.

School Teachers' Pay

2022/23 and 2023/24

Over the summer the School Teachers' Review Body (STRB) published its [report](#) for 2022/23. The DfE subsequently announced their acceptance of the recommendations in full.

Now, both the STRB Report and Secretary of State's response are subject to a consultation process which will run into early September. The Local Government Association have consulted Local Authorities [as large scale employers of teachers] for their thoughts. This consultation closed on the 5th September 2022.

It is expected that the School Teacher Pay and Conditions Document (STPCD) for 2022 will not be available until October as this is when it officially becomes statutory. Therefore pay awards will need to be backdated to 1st September 2022.

The government declined to make a pay award for 2023/24, instead it will ask the STRB to consider the situation next year and make further recommendations.

NYES HR has been working hard over the previous months to produce a Model Pay Policy, based on the STRB's recommendations for 2022/23, in conjunction with local teacher union representatives. NYES HR's Model Pay policy will be published once the government officially makes its announcement.

Consultation on Additional Measures Required for Severance Payments

HM Treasury [HMT] has issued a [consultation](#) on proposals to limit exit payments.

The aim of this consultation is to seek relevant parties' views on new administrative control processes for payments to employees in excess of £95,000, as well as amendments to the process for special severance payments. It is believed the Department for Education (DfE), are likely to issue more information direct to academies themselves.

HM Treasury is keen to implement additional scrutiny and assurance of exit decisions and additional insight on the use of exit payments, which would include 'settlement agreements' with staff in academies. For example;

- a new proposal for high value severance payments of £95,000 or more to be approved by the relevant Secretary of State
- a requirement for special severance payments* of any amount to be approved by HM Treasury
- A review of the criteria required when putting a business case together for making such payments
- A proposal to add repayment clauses for special severance payments should an individual be re-employed in the public sector

The DfE have very recently confirmed these proposals would apply to Academy Trusts. Academies are advised to take note of the government's proposals and consider taking part in the consultation process. Please get in touch if you require additional information and guidance.

** (A special severance payment is one in excess of existing contractual and statutory entitlements)*

Academy Trust Handbook 2022

The Academy Trust Handbook for academic year 2022/23 has now been published and becomes effective from 1st September 2022. Changes are minimal and the latest version can be found [here](#).

Academy trusts must comply with the handbook as a condition of your funding agreement and it is recommended that those responsible for governing, managing or auditing a Trust read the handbook.

Changes to Fit Notes

Those staff within school responsible for managing attendance and sickness absence need to be aware of a change that occurred shortly before the end of the summer term.

From 1st July 2022, a wider range of professionals can issue the medical Fit Note (previously referred to Sick Notes), not just GP's. This includes Nurses, Occupational Therapists [OTs], Pharmacists and Physiotherapists.

However, pharmacists under this guidance does not mean "high street" pharmacists and only refers to those working out of GP practices or in Hospital settings.

Similarly, the reference to Occupational Therapists does not include employers Occupational Health professionals.

More information can be obtained from government guidance; [The Fit Note, guidance for patients and employees](#).

Joint Union Protocol for Long Covid

Shortly before the end of the summer term you may have received direct communication from Teaching and Support Staff Unions about a proposed protocol for supporting employees with Long Covid. Unions are seeking agreement from employers to adopt this protocol.

The Unions first put forward the suggested protocol around May 2022, and may have contacted academies directly requesting agreement to adopt the protocol alongside other absence management policies and procedures. At this time our recommendation is that Long Covid be treated in the same, supportive manner as other conditions and disabilities, with no need for a specific and separate protocol.

Some useful sources of further support and guidance on supporting employees with Long Covid can be found via the [NHS](#) and your HR Professional will be happy to discuss specific cases with you as and when they occur.

New QTS System for Overseas Teachers Expected 2023

The Department for Education (DfE) has announced its intention to make changes to the system used for assessing and awarding QTS to overseas teachers.

Presently, a teacher not trained in England can apply for QTS if they qualified as a teacher in a certain number of locations. For those teachers from other locations they must either complete initial teacher training in England or work without the qualified teacher status and undergo an assessment.

The new service, called **Apply for Qualified Teacher Status in England**, will look at and make an assessment of an individual's qualifications and experience against pre-defined criteria to decide whether to award QTS. When it comes into force it will be open to qualified teachers from across the world.

Further DfE guidance is expected in autumn and here is the link to the [Gov.uk](#) site with more information

NOTE: Currently, teachers from the Ukraine can work in an academy or free school in England without QTS indefinitely. When the changes come into effect, should they wish to, they will be able to apply for QTS using this new method or via the assessment only route.

Quick Guide to Right to Work in the UK

In the 2022 summer term, the NYES HR helpline noticed an increase in the number of enquiries regarding non UK residents/nationals and their ability to work within the UK and education establishments in particular.

This was perhaps driven by the realities of BREXIT, plus also the consequences of the Russia/Ukraine conflict. This article covers the broader headlines for information however if you have a specific query you can either use the below links to government information on the matter or speak to your HR professional or the Advisory team on line and email address who will be more than happy to help.

Following BREXIT the UK government has simplified the right-to-work conditions for foreign nationals, including those from the European Union (EU). A new scheme was implemented called the [Skilled Worker Visa](#), which replaced previous work-visa schemes. The new scheme allows foreign nationals to come to; or stay in; the UK if already here, to do an eligible job with an approved employer. The key criteria that education establishments must evidence are;

- Is the role you wish to appoint to an [‘eligible’](#) one?
- Is the school/academy or MAT an approved Home Office [‘sponsor’](#)?

There are a number of schemes supporting refugees from Ukraine to work in the UK however, schools still needs to apply the normal and standard employment clearances and checks. This includes a letter or Certificate of Good Conduct and the UK government is keen to emphasise that Ukraine has a functioning government and is still able to operate the necessary processes, including criminal checks. Applications for Letters of Good Conduct are done online, more information is available [here](#).

If a school employs persons who are not UK nationals or residents and therefore require visa's and permissions to work in the UK, including the 'Homes for Ukraine' scheme, they must be careful to make sure that all requirements of the allowed right-to-work in the UK are observed and complied with. There are heavy penalties for getting it wrong, overlooking visa expiry for example.

The following links are useful sources of information when recruiting persons from outside the UK and your HR professional will be happy to provide advice and guidance on any specific cases you experience.

- [Work in the UK - \(www.gov.uk\)](#)
- [Skilled Worker Visa: Overview - \(www.gov.uk\)](#)
- [Teach in England if you qualified outside the UK - \(www.gov.uk\)](#)
- [UK visa sponsorship for employers: Overview - \(www.gov.uk\)](#)

Right to Work Checks

Changes effective from 1st October 2022

Since March 2020 employers, including academies have been able to temporarily adjust the way they conduct Right to Work checks for job applicants, including school support staff and teachers.

Recently however, the government announced that the temporary adjustments they made to right to work checks due to COVID-19 will come to an end on 30 September 2022 (inclusive).

Any checks completed between now and 30 September inclusive can follow the temporarily adjusted process.

Remember it is unlawful to employ someone who does not have the right to work in the UK. By carrying out an adequate right-to-work check you have a statutory defence if that worker is later found to be working illegally.

ACTION: Those with responsibility for recruitment and assessment of applicants should familiarise themselves with the latest government guidance [here](#) and contact NYES HR via NYHR@northyorks.gov.uk if further advice and support is needed.

Local Government Review

Reminder of the impact on Job Evaluation Services for NJC roles

Further to the communication issued to academies in June 2022, in order to accommodate the increased demand after the summer for role design and job evaluation services to establish the new Council for North Yorkshire there will be a pause on all JE requests requiring full evaluation from the specialist Pay and Reward team for the period **1 September 2022 to 31 December 2022**.

To mitigate this, so that the temporary pause will have minimal effect NYES HR have implemented the following measures:

- Increased the range of 'template' job descriptions which have already been evaluated to ensure that there is an increased library of resources to use
- Will seek to benchmark jobs where this is possible against comparable roles

At this time we recommend the use of pre-existing and pre-evaluated Job Descriptions held within your establishment or by NYES HR, as useful templates that would need little or no further advice or alteration.

In the event that roles are altered during the period of the JE pause and a template or benchmark is not suitable, there is the option of awarding support staff temporary honoraria payments for change/alterations to roles/duties with a plan to have the role evaluated following the pause.

Apologies again for the temporary disruption to this element of the service but we hope that you will understand that it is a necessary step as part of the significant programme underway, which is putting extra demand on the specialists who provide this expert advice.

NYES HR Contact Email Changes

The current generic email address for our team is NYHR@northyorks.gov.uk and this email account, along with the helpline (01609 798343) are covered on a rota basis Monday to Thursday from 8.30am until 5pm and on Fridays from Fridays 8.30am until 4.30pm and this continues throughout holiday periods, (excluding Bank Holidays).

This helpline provides general policy and terms and conditions advice. The team have recently been rebranded from NYHR to NYES Human Resources or abbreviated to NYES HR and we will be moving to a new generic email address, replacing the current NYHR@northyorks.gov.uk with NYES.HR@northyorks.gov.uk with effect from **31st October 2022**. The telephone number is not changing and neither are the team's individual email addresses. To ensure your communications reach us, please make a note in your diary and update your contact lists.

There will be a transition period where emails sent to the NYHR@ inbox will still be received but in time, that email address will cease and all emails will need to be directed to NYES.HR@northyorks.gov.uk.

All of our documents are being updated to reflect this new email address and we would ask again that you please note the given timescales and update your records accordingly.

NYES HR Policy Update

The [CYPS.info site](#) is always being updated and refreshed with new, enhanced policy and guidance to support leaders and managers in all things 'HR'.

Most recently, a newly updated version of the Disclosure and Barring Service Policy has been published under the HR Recruitment – [Clearances](#) – section of CYPS.info. In this Autumn term, NYES HR will also be looking to revise and update its staff Disciplinary policy as well as the Smoke Free Workplace and Reorganisation, Redundancy and Redeployment policies.

ACTION: Academies/Trusts may wish to consider adoption of the revised policies in line with local procedures and timescales.

Mental Health Training for Senior Mental Health Leads

A recent [survey](#) commissioned by the Early Intervention Foundation (EIF) found that 82% of secondary school teachers have seen increasing levels of anxiety/depressive symptoms among pupils over the past year. The survey also found that 66% of teachers have seen a worsening of existing mental health problems.

The Department for Education (DfE) is offering a grant of £1,200 for [eligible education settings](#) to train a senior mental health lead to implement and sustain an effective whole school approach to mental health and wellbeing in their school.

Settings can now apply for a senior mental health lead training grant to commence training within the 22/23 financial year, up to 31 March 2023.

More information can be obtained from government guidance [here](#).

NYES Training Dates

All courses are delivered via Teams and can be booked through NYES. Contact us to discuss training tailored to your needs susan.mcginn@northyorks.gov.uk

Safer Recruitment and Single Central Record (SCR) Refresher
22nd September 2022

Successful Appraisal Training
21st September 2022
29th September 2022
5th October 2022
11th October 2022
8th November 2022

Challenging Conversations
18th October 2022
1st December 2022

Resolving Issues at Work
15th November 2022

Wellbeing Champions
[Available to NY Schools/Academies only]
29th September 2022*
19th October 2022

Governor Panels: Staff Hearing and Appeals
15th November 2022*
21st March 2023*

Managing Performance and Capability
13th October 2022
31st January 2023

HR Toolkit for Senior Leaders
8th November 2022
9th March 2023

Managing Attendance & HR Related Issues
12th October 2022
8th February 2023

* denotes an evening session

Employment Law Insight (Mr H Drummond v Commissioners for HM Revenue and Customs)

The Case

Mr Drummond began working for HMRC in 2002 and during his employment received a No-Driving Order from the DVLA due to health issues he was experiencing. In 2018 Mr Drummond took up a new role of Caseworker with the same employer. This new role required him to travel to visit businesses on occasion however, it was necessary for two people to be present at meetings so the colleague would drive. Discussions were had about the possibility of Access to Work support but as colleagues were able to drive Mr Drummond this was not explored further.

In 2020 the employer (HMRC) decided to begin a recruitment campaign to take on a large number of caseworkers at a higher grade. The new role would require the post-holder to hold a driving licence. Once advertised Drummond was encouraged to apply and did so; ensuring he stated in his application that he did not have a driving licence.

The application process was immediately terminated and Mr Drummond rejected by email.

When challenged and questioned about this decision Mr Drummond repeatedly received the same response that a driving licence was required. Responses to his queries were slow and Drummond later described to the tribunal that he had been “disappointed and aggrieved” by the responses he got.

In February of the following year (2021) he submitted a grievance, attended an investigation meeting and the outcome communicated to him by a senior manager simply mirrored previous correspondence that a driving licence was essential and he was not “substantially disadvantaged”.

A Tribunal claim was brought by Mr Drummond for disability discrimination and indirect discrimination. The Tribunal unanimously judged that the claims of discrimination arising from disability, indirect discrimination and failure to make reasonable adjustments succeed and ordered the HRMC to pay over 11k for financial loss; and over 9k by way of compensation for injury to feelings.

Points to Consider

This case saw an award made for “injury to feelings”. This type of compensation can only be awarded where a claimant wins a discrimination claim and the amount awarded depends on the “band” the claim falls into; lower, medium and higher; with sums ranging from £1,000 to £49,300.

The Tribunal took a negative view of the lack of assessment by the employer of how the introduction of a mandatory requirement to drive might impact people with protected characteristics. Elements felt to be “essential” to the role must always be carefully considered for their fairness.

How an employer handles candidates throughout the recruitment process is incredibly important:

- In this case over-reliance on the essential criteria as a suitable reason to reject, left the applicant feeling unheard, even when he had suggestions around how he could meet the needs of the role with support from Access to Work.
- The automated process of rejected candidates can also leave applicants with a negative impression of the employer and workplace.
- The wording of advertisements and recruitment documentation is important and care must be taken to not give ‘mixed messages’. In this case the employer was careful to highlight that “***if a person with disabilities is put at a substantial disadvantage compared to a non-disabled person, we have a duty to make reasonable changes to our processes***”. However, when such disadvantage was raised the handling of the matter was lacking.

Understanding the offer from providers such as [Access to Work](#) before requiring their support and services can put an employer on the front-foot when; and if; a prospective or current employee seeks adjustments and support.

More information and advice on implementing reasonable adjustments can be sought from NYES HR via 01609 798343 and/or NYHR@northyorks.gov.uk or by accessing NYES relevant Training Courses.