



# NYHR Key Updates September 2019

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## NYHR Advisory service

The NYHR Advisory service operates as a hotline with **desk based staff** available to take queries during office hours. It is your point of contact for queries relating to the interpretation of HR policies, procedures and statutory staffing related documents, including terms and conditions. Contact the team on [01609 798343](tel:01609798343) or alternatively by email at: [NYHR@northyorks.gov.uk](mailto:NYHR@northyorks.gov.uk). We also have a **Live Chat** facility available at <http://cyps.northyorks.gov.uk/hrpages>.

All Schools and Academies also have a **team of Advisers** who are your key contacts for casework and HR Support who **work flexibly across the County**. All HR Advisers and Senior HR Advisers are managed by our Principal Advisers, [Mairi Reed](#), [Harry Rashid](#) and [Julie Boucher](#). The HR Advisory Service is overseen by [Penny Yeadon](#) as Head of HR.



## Policy update

Below are details of the HR policies which have recently been developed or updated. The complete list of the HR policies on CYPs Info is regularly updated and is available [here](#).

### **School Pay Policy 2019/20**

Again this year, there have been a significant delay in the DfE publishing its proposals for the uplift to teachers' pay. **Consultation concluded on 13 September** and the [School Teachers Pay and Conditions Document](#) was **published on Friday 20 September**. This has offered no opportunity for schools to accurately budget for 2019/20, and NEOST (National Employers Organisation for School Teachers) and Professional Associations, have again been robust in their feedback to DfE that this **process must be conducted earlier in future**.

When the STPCD was finally published it confirmed the **pay award is 2.75% across all teaching ranges and allowances**.

Note that although DfE leave schools to determine for themselves a number of discretionary pay scale elements (e.g. points 2-5 on the MPS), schools tell us that **LA recommendation on these points is still welcomed**. It is notable that, despite removing pay reference points for the last few years, the Local Government Association have reverted this year **to publishing reference points again** - [LGA Pay Reference Circular](#).

Additionally, the circular makes provision for the fact that schools made varying decisions on the **application of the pay award in 2017**. You may recall that, following a survey of schools' views in that year, **we recommended a 1% increase** to pay reference points (M2-M5) as **views were divided** as to whether to apply the 2% to all points in MPR.

Regardless, the direction of travel appears to be **reversion to reference points** in some form and so over the coming year we will consider **reviewing our recommended reference points** in order to ensure that they are **competitive and affordable**, including benchmarking with other neighbouring authorities. Any strong views on this can be sent to [NYHR@northyorks.gov.uk](mailto:NYHR@northyorks.gov.uk).

In the meantime, **NYCC are recommending that the 2.75% uplift is applied across all allowances and scale points** of each respective range for 2019. FMS teams have already built 2% into budget projections and there is a commitment from Government to fund the additional 0.75%.

We agreed a proactive 'in principle' approach to **consultation on the model Pay Policy** with professional associations on the basis of the proposed pay award, in order to avoid any unnecessary delay. Having consulted with unions on a draft policy, **the final pay award has not altered from the proposal**, which is good news. However, we are respectful of the fact that the professional associations may not yet have been issued with their national guidance given the fact that the STPCD was only published on Friday of last week, but **we have published the [School Model Pay Policy](#) now for you to access and adopt**. We continue to produce a 'see the changes version' which schools have told us is helpful.

Despite late release of this information by the DfE, schools are reminded to continue to observe the **timelines in the appraisal policy** to ensure that decisions on pay progression are made by 31 December for head teachers and by 31 October for other teachers.

## Appraisal Policy

A revised model Appraisal Policy was recently published by NYHR and communicated to schools through the Red Bag.

The revised policy covers **teaching and support staff** and have been consulted on with the Professional Associations and Unison.

The Secretary of State for Education issued a letter to Local Authorities and Academy Trusts on 17 July, 2019, around reducing workload and the use of data in schools. A copy of the letter is available [here](#). The letter highlights revised guidance regarding **restrictions on the use of pupil assessment data in performance management discussions**. The model Appraisal Policy references the '[Making data work](#)' document where this requirement originated. Further information is also available within the DfE document '[Implementing your school's approach to pay: guidance for maintained schools, academies and local authorities](#)'.

### Recommended actions

- If schools have not already done so, it is recommended that this policy is progressed to Governing Bodies for adoption.

## Workplace Health and Wellbeing Strategy

A template Workplace Health and Wellbeing Strategy has been developed to help schools and Academies demonstrate their **commitment to staff wellbeing** and develop effective practices to support this.

The Strategy states the school's commitment to **supporting and promoting employee wellbeing**, sets out its **aims and objectives** and details **roles and responsibilities**. The Strategy is supported by a **toolkit** which enables schools to develop an **action plan** relevant to their setting.

Each school will have its own approach to wellbeing which should be tailored to meet their individual challenges and needs. **Section 1 of the toolkit** provides suggested actions with regard to **developing the school's approach to wellbeing** and **identifying priority areas** to be addressed through the action plan.

### Recommended actions

- Progress the Strategy to Governing Bodies for adoption.
- Consider how to communicate and engage with the whole staff team around wellbeing and develop an action plan.

## Policies coming soon

### **Early Retirement Policy – due October 2019**

NYCC has reviewed its **Early Retirement Policy** and we have considered how this will apply to schools. As NYCC remains the employer for maintained schools some decisions around the early release of LGPS pensions have been retained by the Local Authority. We have produced a **policy guidance document for schools** which we are currently consulting on with recognised unions.

### **Recruitment and Selection – due January 2020**

We are also reviewing the school **Recruitment and Selection Policy** and updating the forms and guidance in the recruitment area on CYPInfo. As part of this review we are considering our guidance around when, during the recruitment process, **criminal conviction information** is requested from applicants. The revised policy is scheduled for release by the **start of 2020**.

### **Term time working arrangements – due early 2020**

We are currently considering what impact the changes made earlier this year to the **Green Book** and a recent **legal decision around part-year workers** (Brazel v The Harpur Trust), will have on NJC employees including **relevant support staff within schools**. We hope to reach an agreement with Unison by the end of the year when further information will be published. Should any school wish to **contribute their views** to the development process then please contact [NYHR](#).

## Employment law update

### **Day 1 Statement of Particulars**

We are expecting a range of new employment rights to be implemented as a result of the **Government's Good Work Plan** published in December 2018. The Plan sets out the vision for the future of the UK labour market and how the recommendations from the Taylor Review of Modern Working Practices will be implemented.

The **first provision** due to be implemented is the right for **workers and employees** to receive a **written statement of particulars from day 1 of their employment**. Currently, this must be issued within 8 weeks of commencement and is a right for employees only. From 6 April 2020 it is proposed that this right will be **extended to workers so will apply to casual, relief and supply staff** and an **increased range of terms** will need to be included.

In preparation for this we are working with colleagues in ESS to review documentation and processes to ensure schools can be compliant with this requirement. The impact for schools is that they will need to **notify ESS of new starters early enough** to enable statements to be issued by the start date.

Further **information and guidance** will be issued over the coming months.

## Safeguarding Update

**Keeping Children Safe in Education** has been updated and a **revised September 2019** version is now available [here](#). This replaces the previous September 2018 version.

There have been minimal amendments in parts three and four, **Safer recruitment** and **Allegations of abuse made against teachers and other staff**. The relevant changes made are:

- wording at paragraph 157 has been changed for **overseas trained teachers** and directs to Gov.uk as guidance on this is currently being revised
- paragraph 173 **reaffirms the requirement to carry out a section 128 check for Governors in maintained schools**
- paragraph 174 contains new guidance confirming that **DBS checks are not mandatory for associate members** appointed to serve on a committee of the governing body

A summary of all the substantive changes to the document are detailed in Annex H, pages 108 – 109.

### **Actions**

- Schools are advised to check that **they have undertaken a Section 128 check**, through the [DfE on-line services](#), for **all full members of the Governing Body**. NYHR recommend that this is recorded on the school's single central record – further information is available in our [Single Central Record Guidance](#).

## Fixed Term Contracts – Beware!

The use of fixed term contracts in schools is very common. However, employers need to be aware that employing staff on a fixed term basis **doesn't always provide the flexibility to end contracts** that you might expect.

In 2002 the law afforded much more protection to staff on fixed term contracts but this limited the potential uses for the employer. Schools should be aware ending a fixed term contract is still a **dismissal in law** and it is necessary to demonstrate a **valid reason for the dismissal to be deemed 'fair'**. Furthermore, any staff that are dismissed are entitled to the right of appeal.

Fixed term contracts are suitable for a role with a **clear end point** and justification for it being a **temporary assignment**. This could be cover for **sickness or maternity leave** or to complete a **specific project or task**. However, ending fixed term contracts needs to be approached with care. When fixed term contracts are used for reasons other than sickness or maternity cover, often the reason for ending the post will be that work has reduced or ceased, **making the post redundant**. In these scenarios, employees with the qualifying period of **2 years' continuous local government service** may be entitled to a **redundancy payment** and, if they are over 55 and a member of the LGPS, pension release.

Further guidance and template letters can be found on [CYPInfo](#).



## Encouraging EU Workers to apply for Settled/Pre-Settled Status

As the uncertainty over Brexit continues, we strongly recommend schools **engage with any EU workers** to promote their ongoing commitment and support and provide reassurance of the stability of working in the UK post Brexit, whilst **encouraging them to apply for pre settled/settled status as soon as possible**.

For information regarding eligibility and **to apply for pre-settled or settled status** please visit the [GOV website](#).

For the first part of the application process, individuals need a **compatible Android phone** or tablet to scan their identity documents. If their device is not an Android or does not have near field communication (NFC) they can make an appointment to bring your ID documents to **nominated NYCC registration office**, where it can be scanned. Click [here](#) for information on how to access NYCC's ID verification service.

Further general advice for schools on how to prepare for Brexit is available from the DfE [website](#).

## Apprenticeships

As a reminder, if your school is interested in an apprenticeship for you or any of your staff or have any queries about apprenticeships please contact **Annabel MacGregor, Workforce Development Advisor - Apprenticeships** on:

**Tel** - 01609 534206

**Mob** – 07970 290538

**E-mail** – [Annabel.macgregor@northyorks.gov.uk](mailto:Annabel.macgregor@northyorks.gov.uk)

Apprenticeships are for new and existing members of staff and range from Level 2 (GCSE) up to Level 7 (Masters). For further information click [here](#).

## FAQs - Training days and support staff

### ***Are support staff expected to attend training days?***

This will depend on the contractual arrangements for each member of staff which will be detailed in their statement of particulars. Generally, term time only support staff will be contracted to work 39 weeks per year i.e. 38 teaching weeks and 5 training days, and these staff would be required to attend training days which fall on their working days.

However, some TTO staff may only be contracted to work 38 weeks per year and these employees are not required to work on training days.

TTO staff who work additional weeks and full-year staff would be expected to attend work on training days which fall on their working days provided that they have not had annual leave agreed for that day.

### ***Can part-time staff be required to attend training days which fall on their non-working days?***

No, support staff cannot be required to attend training which falls on their non-working days or outside their normal working hours, unless there is an express provision within their statement of particulars requiring this. However, it is likely that attendance at such sessions would be beneficial to the individual and, therefore, a mutual agreement could be reached for them to work on their non-working day or outside their normal working hours. Attendance on a training day must be recompensed either with the equivalent time off their contracted working days, where this is possible, or paid additional hours for these days/hours.

Where part-time staff are unable to attend a relevant development event, the school should consider if there is any other way that the employees can access this training e.g. event videoed so can be viewed later, employee given copies of hand-outs or briefing from someone who attended the training.

### ***Can staff who only work pupil contract days (38 weeks) be required to attend training days?***

No, but as above, these staff can be invited to attend relevant training sessions for which they should receive additional pay or be given time off in lieu.

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## **FAQs - Training days and support staff (continued)**

### ***Are support staff entitled to 5 training days like teachers?***

Support staff do not have an entitlement to training days in the same way as teachers and do not have the contact/non-contact time distinction that teachers have. Therefore, it is contractually acceptable for a part-time TTO employee to be required to work with pupils on any day they are scheduled to work, if none of the training days fall on their working days. This being said, all staff should be given the same access to training and arrangements should be put in place to ensure that all employees receive appropriate professional development.

### ***Can support staff be required to attend twilight training sessions?***

Again, this will depend on the contractual arrangements of the member of staff. Employees cannot be required to attend work outside their normal working hours, therefore, if the twilight session finishes after the end of their normal working day the school cannot require that the employee remains after this time, though the employee may agree to do this.

However, if one or more training days have been replaced with twilight training sessions the working arrangements of TTO staff may need to be reviewed to take into account any changes to working hours e.g. reduction in the number of days worked per year with hours made up through twilights. This should be approached in the same way as any other contract variation and the preferred approach would be to reach agreement with individual employees. If this is not possible, schools should take advice from their HR contact.

### ***What work can support staff be required to undertake on a training day?***

Support staff can be required to undertake any of their normal duties during their contracted hours and, if the development activities being undertaken on the training day are not relevant to their job role, they can be directed to other normal duties.



## NYHR Training

Our training courses provide practical tools and guidance to develop the skills, knowledge and confidence essential in managing staff. All our training courses are delivered in small groups creating an opportunity to interact with colleagues, gain practical strategies and reflect on current practice.

Code	Date	Name	Venue
HR-1119-T004	20 <sup>th</sup> November 19	<b>Holding People to Account: Developing Performance and Capability</b> Develop a proactive approach to managing performance and improving accountability, working with the relevant policies and action plans to effectively deal with underperformance and capability.	Northallerton
HR-1119-T005	28 <sup>th</sup> November 19	<b>How to succeed with HR issues</b> Confidence to make informed decisions about the employment of staff, from selecting the right contract and following policies through to notice periods and the end of the employment contract.	Skipton
HR-0120-T001	30 <sup>th</sup> January 20	<b>Appraisal</b> Engage and motivate staff through effective appraisal discussions and setting SMART objectives so that they know what is expected of them and how they contribute to the success of the organisation	Ripon
HR-0220-T001	5 <sup>th</sup> February 20		Northallerton
NYS-320-T004	3 <sup>rd</sup> February 20 10 <sup>th</sup> February 20	<b>Mental health first aid Adult 2 day course</b> Mental Health First Aid teaches people how to recognise those crucial warning signs of mental ill health, how to identify, understand and help a person who may be developing a mental health issue. The training is accredited by Mental Health First Aid England, delivered by Approved MHFA Instructors.	York
NYS-0320-T004	4 <sup>th</sup> March 20 11 <sup>th</sup> March 20		Boroughbridge
HR-0320-T002	10 <sup>th</sup> March 20	<b>Challenging conversations</b> Empowers individuals to have those difficult conversations across a wide range of people and situations that will move the issue forward, and engage individuals in solution focused discussion.	Ripon

Visit [www.nyeducationsservices.co.uk](http://www.nyeducationsservices.co.uk) now to book a place