

...equality-proof the School Pay Policy

All schools are required to have a pay policy which sets out the basis on which the pay and pay progression of teachers will be determined. The pay policy should be agreed with the NASUWT and subject to regular review.

INTRODUCTION

In accordance with the provisions of the Equality Act 2010 (section 149), schools are under a statutory duty to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The law defines protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The equality duty means that schools must have due regard to the above matters in relation to the management of their pay policies.

THE SCHOOL PAY POLICY

The school's pay policy will need to ensure that the school is meeting the equality duty.

As a minimum, the school will need to ensure fair access to the pay system at the school and must not:

- treat a teacher less favourably than another teacher because they have a protected characteristic;
- provide rules or procedures which have (or would have) a worse impact on teachers who share a particular protected characteristic than on people who do not have that protected characteristic, unless this can be shown to be objectively justified;
- treat a teacher less favourably than another teacher because they are associated with a person who has a protected characteristic;
- treat a teacher less favourably than another teacher because of a perception that the teacher has a protected characteristic;
- treat a teacher badly or victimise them because they have complained about discrimination or helped someone else complain, or done anything to uphold their own or someone else's equality law rights;
- harass a teacher because of the teacher's protected characteristics;
- prevent employees from making a 'relevant pay disclosure' (i.e. for the purpose of finding out whether or to what extent there is unlawful pay discrimination) to anyone, or prevent employees from seeking such a disclosure from a colleague or a former colleague.



In addition, the school must:

- make such ‘reasonable adjustments’ as necessary to ensure a disabled teacher has the same access as a non-disabled teacher to the pay system and to opportunities for pay progression.

Less favourable treatment may include:

- paying teachers who have a particular protected characteristic less than other teachers who do not have this protected characteristic;
- having a rule in the pay policy that restricts access to pay progression on the basis of a teacher’s level of absence from work;
- denying pay progression to a teacher because they have engaged in a discussion with a trade union representative about being paid differently because of their protected characteristic;
- denying a teacher pay progression because they have complained about being subject to harassment at work.

The school should:

- make sure it knows why it is paying teachers differently;
- check that teachers who share particular protected characteristics are not treated less favourably than other teachers;
- conduct an equal pay audit to examine the pay profile of staff with protected characteristics;
- apply a transparent, structured, pay system rather than one that relies on managerial discretion.

The NASUWT/NUT Model School Pay Policy has been designed to enable schools to apply a transparent, structured and fair pay system.

ISSUES FOR THE SCHOOL TO ADDRESS

1. Confirm that the school is committed to meeting the equality duty

- the school has agreed an equal opportunities policy in relation to staff employment which has been developed in consultation with staff and trade unions;
- the school’s equal opportunities policy has been reviewed to ensure it complies with the relevant legislation, regulations and statutory guidance;
- the school’s pay policy has been developed in accordance with the school’s equal opportunities policy and the school’s equality duty;
- the school’s equal opportunities policy and the pay policy are communicated to all staff at the school;
- all staff, including line managers, have received training provided by the school on the operation of the equal opportunities policy and the pay policy;
- the governing body has received training about the equal opportunities policy and the implications of the Equality Act 2010;
- staff and the governing body:
 - receive information and advice on their responsibilities under the statutory equality duty;
 - are provided with adequate evidence to enable them to understand the potential effects of their decisions on the protected groups covered by the equality duty;



- are expected actively to consider equality implications prior to making decisions in connection with the pay policy.

2. *Ensure that the operation and impact of the pay policy are reviewed appropriately*

- the school consults with staff and with the recognised trade unions on the arrangements for equalities monitoring, record-keeping and reporting under the pay policy;
- the school has in place a clear mechanism for monitoring and reporting on the operation and impact of all aspects of the pay policy, taking account of:
 - the distribution of teachers across the pay ranges at the school, including:
 - unqualified teacher pay range
 - main pay range
 - upper pay range
 - leading practitioner pay range
 - leadership spine
 - the outcome of teachers' performance management/appraisal, including:
 - teachers whose performance review was unsatisfactory
 - teachers whose performance review was satisfactory
 - teachers on a capability procedure
 - decisions regarding teachers' annual salary determination, including:
 - unqualified teacher pay range
 - main pay range
 - upper pay range
 - leading practitioner pay range
 - leadership spine
 - the award of allowances and other payments, including:
 - TLR1
 - TLR2
 - TLR3
 - SEN allowances
 - recruitment and retention payments
 - other allowances and payments
 - the determination of the salaries of teachers newly appointed at the school;
 - teachers who are eligible for pay progression;
 - teachers who 'apply' or are considered for pay progression;
 - the outcome of decisions on the pay progression of teachers at the school;
 - teachers who submit pay appeals;
 - the outcome of decisions in respect of pay appeals by teachers at the school.
- the school monitors the operation and impact of the pay policy (as above) with due regard to teachers with the following protected characteristics:
 - age
 - disability
 - gender reassignment
 - marriage and civil partnership
 - pregnancy and maternity
 - race
 - religion or belief
 - sex
 - sexual orientation



- the school reviews the operation and impact of the pay policy to ensure that it does not discriminate against teachers who:
 - are trade union members or not members of a trade union;
 - are employed on fixed-term/temporary contracts;
 - are employed on part-time or job-share contracts.
 - the school recognises and respects the personal and sensitive nature of equalities data and acts in accordance with its obligations under the Data Protection Act;
 - the school has agreed arrangements to discuss with the trade unions equalities data relating to the pay policy;
 - the school reviews its compliance with the equality duty at least annually;
 - practical arrangements for collecting, analysing and storing data are reviewed and responsibility for these tasks are assigned appropriately.
3. *The school takes into account the needs of each individual*
- the particular needs and circumstances of individuals are taken into account when agreeing objectives, performance criteria and arrangements for classroom observation;
 - reasonable adjustments are made in respect of disabled teachers;
 - teachers are encouraged to notify their line managers of any factors that might impact on their work or performance (e.g. maternity, disability);
 - all staff are advised about the purpose of equalities data collection, how data that is collected will be used and how confidentiality with regard to personal and sensitive information will be assured.

USEFUL SOURCES OF INFORMATION

NASUWT/NUT *Pay Policy Checklist*

NASUWT/NUT *Model School Pay Policy*

Equality and Human Rights Commission www.equalityhumanrights.com

NASUWT
The Teachers' Union

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