

HRConnect

Resource Pack

Includes:

- Top 10 HR Tips for Governors
- Enhancing Performance Management and Capability in Schools
 - Looking into Neurodiversity in the workplace
 - Quick guide to Allegation Management against Staff
- Duty to Prevent Sexual Harassment: Looking at Reasonable Steps for employers
 - Top 5 Things You Need to Know About the Employment Rights Bill





Top 10 HR Tips for Governors

1) Know your HR Policies:

- Understand your HR policies, ensuring that these effectively communicate the purpose, scope and legislation that they cover.
- Update your HR policies to reflect changes in legislation, best practices, and the school's evolving needs.
- Communicate policies effectively to staff and provide opportunities for training or guidance on understanding and adhering to them.

2) Ensuring Confidentiality and Avoid Tainting When Sharing Information:

- Establish clear protocols and guidelines regarding the handling of confidential HR matters.
- Outlining who has access to sensitive information, how information should be stored and shared, and the consequences of breaching confidentiality.
- Governors should only share confidential HR information with other governors or individuals on a need-to-know basis. Information should be shared selectively and with discretion to prevent unnecessary exposure of sensitive details. This will help to avoid tainting governors who may need to remain impartial should a member of the board be required to be a decision maker in formal HR processes.

3) Subject Access Requests (SARs) and Data Protection:

- Familiarise yourself with the core principles of data protection, which include principles such as lawfulness, fairness, transparency, purpose limitation, data minimisation, accuracy, storage limitation, integrity, and confidentiality.
- As a governor, you should understand the process for handling SARs within the school, including how requests are received, acknowledged, and fulfilled.
- It's important to ensure that SARs are handled promptly, fairly, and transparently, and that appropriate measures are in place to verify the identity of the requester to prevent unauthorised access to personal data.

4) Strategic vs Operational:

- While the primary role of school governors is strategic rather than operational, there are certain areas where governors may choose to become involved at an operational level to gain insight into the day-to-day workings of the school and to support effective governance i.e. reading with pupils.
- These operational duties can help governors connect with the school and wider community, aiding their strategic decisions and ensuring the effective operation of the school i.e. attending celebration assemblies, Christmas lunch etc.

5) School's Legal Compliance:

- Understand key employment laws and regulations applicable to schools, such as the Equality Act, Health and Safety at Work Act, and Working Time Regulations.
- Compliance with statutory requirements i.e. Keeping Children Safe in Education.
- Stay updated on any changes to legislation and ensure the school's HR practices remain compliant.
- Work closely with the HR team or external HR advisors to ensure adherence to legal requirements in areas such as recruitment, contracts, working conditions, and employee relations.

6) Safeguarding:

- Prioritise the safety and welfare of all members of the school community by ensuring implementation of robust safeguarding policies and procedures.
- Ensure the school provides regular training and updates to staff on safeguarding protocols, identifying signs of abuse or neglect, and reporting procedures.
- Monitor collaboration with external agencies and authorities to address safeguarding concerns and ensure compliance with statutory requirements.

7) Employee Relations Case Involvement:

- Governors typically play a strategic oversight role in employee relations matters and can on occasions be required to make decisions on individual cases.
- Review and ratification of HR policies, providing guidance, and ensuring that procedures are operationally followed.
- Involvement in employee relations cases is a sensitive matter that requires careful consideration and adherence to proper procedures.
- In complex or contentious employee relations cases, governors may need to seek legal advice to ensure that the school's actions are legally defensible, manage risk and are in the best interests of the school.

8) HR Strategy and Planning:

- Align HR strategies with the school's overall vision, mission, and strategic objectives, ensuring that HR initiatives support wider organisational goals.
- Engage stakeholders, including school leadership and staff members, in strategic HR planning discussions to gather input, feedback, and foster a sense of ownership and commitment.
- Continuously monitor and evaluate HR performance metrics and outcomes to assess the effectiveness of HR strategies and initiatives, making adjustments as needed to drive continuous improvement.

9) Pay and Benefits:

- Ensure that the school's pay structure is fair, transparent, and competitive within the education sector.
- Review pay arrangements annually in line with statutory guidance (STPCD), considering cost-of-living and performance-based increments.

10) Staff Wellbeing:

- Prioritise staff wellbeing as a fundamental aspect of HR management, recognising its impact on employee satisfaction, motivation, and performance.
- Strategic oversight of wellbeing initiatives to support staff, such as flexible working arrangements, access to counselling services, mental health awareness training, and stress management programmes.
- Monitoring of employee wellbeing inline with school's people strategy.

Quick guide to Allegation Management against Staff

Immediate Action and Notification

1

- Are the children safe?
- Do you need to remove the staff member from contact with children to ensure their safety (not suspension at this point)?
- Have you informed the LADO within one working day of the allegation being made?
- Are you acting in accordance with allegations pathways and/or policy?

Initial Assessment and Fact Finding

2

- Have you collected all relevant information about the allegations, including speaking to the person who raised the concern, the accused individual and any witnesses?
- Have you assessed whether the staff member poses an immediate risk to children and completed a risk assessment?
- What actions, such as, paid leave, suspension or increased supervision, maybe necessary to mitigate and risks?

Informing Relevant Parties

3

- Have you informed the parents or carers of the child involved about the allegation and our steps, ensuring this does not compromise the case?
- Have you informed the accused staff member about the nature of the allegations and the process? Are you advising them to seek support from their union and/or a workplace colleague?
- Are you keeping them informed about the progress of the case?
- Are you maintaining confidentiality regarding this employee?

Conducting the Investigation

4

- Are you co-ordinating with the LADO, police, and social services as necessary and been given the OK to proceed?
- Are you clear on the allegations that are being investigated including what breaches to policies have occurred?
- Are you maintaining a comprehensive record of the allegations, investigation process, decisions made, and the rationale? Is your documentation transparent and accountable?

Conclusion and Follow Up

5

- Based on the findings, what is the appropriate action (e.g., disciplinary, referral to the DBS/TRA)? Have you taken these steps?
- Are you providing adequate support to both the child and the accused staff member throughout the process?
- Have you reviewed the case to identify any lessons learned?
- Have you updated your policies and procedures to prevent future incidents?

1

2

3

4

5

Top 5

Things You Need to Know About the Employment Rights Bill

Our expert team identifies and explores
5 key areas and provides actions that Schools and
Academies should start to consider

Looking for expert HR advice?

Request a free 15 minute consultation

0330 124 9996 info@hrconnect.org.uk

Welcome

Hayley Titchner

Senior Legal Advisor, Legal Connect

On October 10 2024, the new government introduced its Employment Rights Bill, keeping its promise within the first hundred days in office. Described as "the biggest upgrade to workers' rights in a generation," the Bill and the Next Steps to Make WorkPay document details Labour's plans for major employment reforms.

Whilst the changes will not be made imminently it is extremely important that you are aware of these, and are preparing for them as much as you can do at this time and whilst we await publication of the further detail of a number of the reforms.

This Bill will have a significant impact on all employers, including Schools and academies. We hope you find this a useful guide, and remember, our HR experts are here to help if you have any questions.

Our Top 5

1

Unfair dismissal

2

Zero hour contracts

3

Protection from Third Party harassment

4

Flexible working

5

Fire and Rehire

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Preparing for Upcoming Unfair Dismissal Reforms: Key Takeaways for Schools and Academies

During our recent training session, we discussed the significant changes to unfair dismissal laws that are on the horizon. These reforms are generating considerable concern among employers, but it's important to note that they won't be implemented until at least autumn 2026.

One of the most impactful changes is that unfair dismissal will become a day-one right for employees. Currently, employees must have two years of service to file a claim for ordinary unfair dismissal. This qualifying period will be eliminated, meaning employees can submit claims from their first day on the job.

In response to these changes, the government plans to introduce a new statutory probation period - called the 'initial period of employment'. This will mean employers will need to review and adjust their policies and working practices. It's a crucial time to develop robust recruitment processes and ensure your organisation is well-prepared for the upcoming reforms.

Call to Action:

Schools and Academies should start reviewing current policies, recruitment strategies and processes. Consider scheduling a discussion with our HR experts to ensure your School is ready for these upcoming changes.

Additionally, it's essential to up-skill your line managers so they can identify performance concerns early, effective management during probation periods and provide the necessary support and development for their staff. This proactive approach will help foster a supportive work environment and mitigate potential issues before they escalate.

Preparing for Upcoming Zero hour contract Reforms: Key Takeaways for Schools and Academies

Currently Schools/Academies and employees can mutually agree to form a contractual relationship without the requirement to offer or accept work on a weekly basis. In the King's Speech, the Government announced plans to address zero-hours contracts. While the Bill stops short of an outright ban, it introduces significant changes aimed at providing more security for workers.

The key changes are:-

1. **Guaranteed Hours:** Employers will need to offer guaranteed hours to zero-hours workers and those on low guaranteed hours if they regularly work more than their contracted hours. These guaranteed hours should reflect the actual hours worked over a reference period, and employers must specify the days and times work will be available. Regular review periods will allow adjustments based on changes over time.
2. **Reasonable Notice and Compensation:** Workers will have the right to reasonable notice for shifts and compensation for shifts that are cancelled or changed at short notice. The specifics of what constitutes "reasonable" notice and "proportionate" compensation will be determined through consultation and secondary legislation.

Schools and Academies who often rely on zero-hours contracts for roles like invigilators and sports coaches, may be concerned about these changes. Workers who prefer to stay on zero-hours contracts can continue to do so.

Call to Action:

Schools and Academies should start reviewing their current use of zero-hours contracts and consider how these changes might affect your staffing resources. Schedule a consultation with our HR experts to ensure your School/Academy is prepared for these upcoming reforms. Proactively addressing these changes will help maintain flexibility while ensuring compliance and fairness for your staff and the effective delivery of provision in your School/Academy.

Over 1 million employee's
in the UK are on zero hour
contracts

Preparing for Upcoming third party harassment liability Reforms: Key Takeaways for Schools and Academies

From 26 October 2024, employers are required to take reasonable steps to prevent sexual harassment in the workplace. While the ECHR mandates this preventative duty extends to third-party harassment, employers are not currently liable for such harassment under the Equality Act 2010.

The Employment Rights Bill proposes several significant changes to the Equality Act regarding harassment:

1. **Obligation to Prevent Sexual Harassment:** Employers will be required to take all reasonable steps to prevent sexual harassment. The Government may issue regulations detailing what constitutes "reasonable" steps.
2. **Liability for Third-Party Harassment:** Employers will be liable for harassment by third parties, such as parents of pupils. This includes an obligation to take all reasonable steps to prevent such harassment.
3. **Protected Disclosures:** Disclosures about sexual harassment will be classified as "protected disclosures," granting whistleblower protections to those who report such incidents.

Call to Action: Actions your School/Academy should currently be undertaking inline with the new legal duty from 26th October 2024

- Review and update your current policies and procedures to ensure they align with the new requirements.
- Train your staff and line managers on recognising and preventing sexual harassment, including third-party harassment.
- Establish clear reporting mechanisms and ensure all staff are aware of how to report incidents of harassment.
- Consider scheduling a consultation with our HR experts to help your School/Academy navigate these changes and implement effective preventative measures.

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Preparing for Upcoming Flexible Working Reforms: Key Takeaways for Schools and Academies

Since April 2024, a significant shift has taken place in the workplace landscape. The right to request flexible working is now a day-one entitlement for all employees, regardless of their length of service. This progressive change empowers employees to seek a work-life balance that suits their needs from the very start of their employment.

Employers are now required to respond to these requests within two months, ensuring a timely and efficient process. Moreover, before any request can be refused, there must be consultation with the employee, fostering a collaborative and transparent decision-making environment.

Currently a School or Trust must tell the employee the ground for refusing, but that's it. All they need to say is: 'We are refusing because of the inability to re-organise work among existing staff.' and the School has to deal with the request in a reasonable manner. It does not mean you have to reach a reasonable decision.

Under the Bill you will have to explain your reasons. You can't just say 'We are refusing because of the inability to re-organise work among existing staff'. You will have to say that and, now, explain why you think it is reasonable to refuse the request on that ground.

So it's not a vast change; but employers now just need to give clearer reasons for refusing, and not act unreasonably. The eight grounds on which an employer can refuse are unchanged.

Call to Action:

The main thing Schools and Academies should consider doing is training your decision makers to get into the habit of detailing the grounds for refusing any requests and ensure that all requests are actioned inline with your policy and procedures. At HR Connect we have been advising Schools/Academies as good practice to include such detail when making flexible working decisions.

Preparing for Upcoming Fire and Rehire Reforms: Key Takeaways for Schools and Academies

Employers occasionally need to modify employees' contracts of employment, typically through discussion and negotiation. However, if employees do not agree to the proposed changes, employers have historically resorted to dismissing those employees and either re-engaging them or hiring others in similar roles to implement the changes. This practice is known as "fire and rehire."

The practice has garnered significant negative attention, particularly due to high-profile cases like P&O and the Tesco v Usdaw case, where Tesco attempted to dismiss long-term employees to eliminate their valuable 'retained pay' benefits.

The current legal position is that the recently updated Code of Practice has significantly restricted the "fire and rehire" process. Employers are now required to engage in extensive consultations and involve Acas, ensuring that this practice is only used as a last resort.

The new Employment Rights Bill addresses this issue by making it automatically unfair to dismiss an employee for refusing a contract variation. Specifically, any dismissal will be deemed automatically unfair (without the need for a two-year qualifying period) if the primary reason for the dismissal is either the employee's refusal to accept a contract variation proposed by the employer or to enable the employer to recruit another person (or rehire the employee) under new terms with substantially the same duties.

While there isn't a total ban on "fire and rehire," it will only be permissible if an employer can demonstrate that the School or Trust would face severe financial difficulties without making the change.

Call to Action:

With these changes, "fire and rehire" practices are likely to become unlawful, even with the "last resort" defence. Schools/Academies will need to carefully review their redundancy processes, especially if considering dismissing an employee and recruiting for a similar role on reduced terms and conditions.

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Other provisions under the Employment Rights Bill

Upcoming Change	Details of the change
Collective Consultation	The Employment Rights Bill will now consider dismissals across the whole business. This could affect groups of Schools based on their structure and who employs staff at each School. For example, if one School in a group has dismissals that don't need collective consultation now, they might need it under the new rules if other Schools in the group also have dismissals within the same 90-day period.
School Support Staff Negotiating Body (SSSNB)	A proposed amendment to the Education Act 2002 will introduce the School Support Staff Negotiating Body (SSSNB), an unincorporated group. The SSSNB will handle matters related to the pay, employment terms, training, and career progression of School support staff. The SSSNB is not expected to be in place until 2027 as extensive consultation will be required.
Trade Unions	The proposal aims to simplify the statutory trade union recognition process. It will introduce new rights for trade union officials to access workplaces to meet, represent, recruit, and organise members. Additionally, the Trade Union Act 2016 and the Strikes (Minimum Service Levels) Act 2023 will be repealed.
Maternity Protection	Currently, pregnant women and those on or returning from extended family leave have extra protection in redundancy situations. The new Bill will enhance these protections. According to the Government's Next Steps document, it will be illegal to dismiss a pregnant worker within six months of their return to work, except in specific cases.

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Other provisions under the Employment Rights Bill

Upcoming Change	Details of the change
SSP	The three-day waiting period before Statutory Sick Pay (SSP) entitlement begins will be removed, making SSP available from the first day of illness. Additionally, the lower earnings limit for SSP entitlement, currently set at £123, will be eliminated.
Paternity Leave	The 26-week qualifying period for paternity leave will be removed, making paternity leave a right from day one of employment (similar to maternity leave). Additionally, paternity leave can be taken after Shared Parental Leave.
Unpaid Parental Leave	The one-year qualifying period for unpaid Parental leave will be removed, making unpaid parental leave a right from the first day of employment.
Bereavement Leave	Bereavement leave will be available to all employees. Currently, under the ERA 1996, it is limited to parents only (Parental Bereavement Leave). The proposal is to remove the word "parental," making bereavement leave a right from day one of employment.
Equality Action Plans	Large employers (with 250 or more employees) will be required to create action plans focused on gender equality. These plans must address gender pay gaps and provide support for employees going through menopause.

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Looking into Neurodiveristy in the workplace





Welcome

Hayley Titchner

Senior Legal Advisor

Thank you for downloading this HR Connect resource which looks at Neurodiversity in the workplace.

Following on from our successful March Breakfast Briefing where Hayley Titchner, Senior Legal Advisor of Legal Connect, HR Connect's very own internal legal division, spoke to delegates around disability discrimination, and specifically the duty to make reasonable adjustments, we have taken the opportunity to continue with that theme in light of Neurodiversity Celebration Week.

Neurodiversity Celebration week is from Monday 17th March - Sunday 23rd March 2025.

This article looks at:



Understanding Neurodiversity



Obligations under the Equality Act 2010



Public sector equality duty



Some practical steps for employers to consider



Understanding Neurodiversity

Understanding neurodiversity is important for both employers and employees as part of creating a diverse, inclusive and supportive workplace. It is also important as part of ensuring an employer meets its legal obligations, for example to make reasonable adjustments for disabled job applicants and employees.

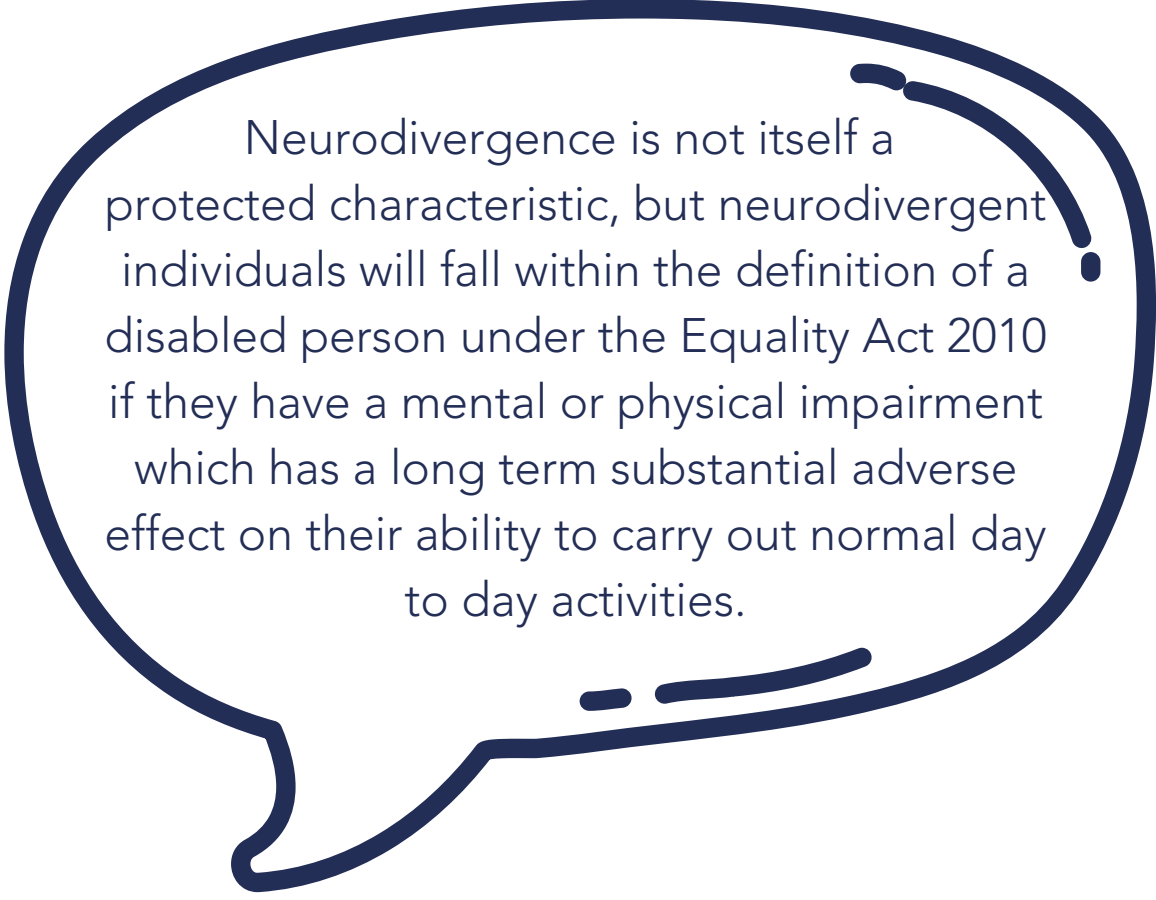
Neurodiversity refers to the different ways the brain can work and interpret information. Most people are neurotypical, meaning that their brain functions in the way that it functions for the majority of people. However, it is estimated that around 15% of people are neurodivergent which means that their brains function in a different way. Employers should therefore expect to encounter and be ready to understand and accommodate neurodivergent job applicants and employees.

Neurodivergent individuals are often referred to as having an 'invisible disability' because their condition is not visibly apparent. Conditions generally considered as falling within the concept of neurodiversity include:

- Attention deficit hyperactivity disorder or ADHD
- Autism
- Dyscalculia
- Dyslexia
- Dyspraxia
- Tourette Syndrome

These conditions are becoming increasingly diagnosed in adults, as well as in children. Employers should note that the effects of such conditions vary from person to person and may also vary over time.

It is important to understand the legal framework which also underpins an employer's obligations in respect of the employment of neurodivergent individuals, such as the requirements under the Equality Act 2010 (eg not to discriminate against a disabled person and to make reasonable adjustments), contractual considerations when changing terms and conditions of employment and obligations in respect of health and safety at work.



Neurodivergence is not itself a protected characteristic, but neurodivergent individuals will fall within the definition of a disabled person under the Equality Act 2010 if they have a mental or physical impairment which has a long term substantial adverse effect on their ability to carry out normal day to day activities.

Since it is the requirements of that statutory test that determine whether or not a neurodivergent person is considered to be a disabled person, not all persons with the same neurodivergent condition will necessarily all be disabled or all not be disabled, e.g. a person with mild dyslexia may not experience a substantial adverse effect on their ability to carry out normal day to day activities whereas someone with more severe dyslexia is likely to experience a substantial adverse effect and meet the definition.

In respect of a neurodivergent job applicant or employee that falls within the definition of a disabled person, under the Equality Act 2010, employers:

Must not directly discriminate against them by treating them less favourably than others because of their disability

Must not treat them unfavourably because of something arising from, or in consequence of, their disability

Must not victimise them by subjecting them to a detriment because they have done a protected act (eg brought employment tribunal proceedings), or because the person believes they have done, or may do, a protected act.

Must not harass them by subjecting them to unwanted conduct which is related to disability, where the conduct has the purpose or effect of violating the victim's dignity or creating an environment that is intimidating (eg bullying), hostile, degrading, humiliating or offensive.

Must not indirectly discriminate against them by applying a provision, criterion or practice that puts, or would put, individuals with their disability at a particular disadvantage when compared with individuals who do not have it, and it puts, or would put, them at that disadvantage and it cannot be justified as a proportionate means of achieving a legitimate aim.

Have a duty to make reasonable adjustments for them if they are put at a substantial disadvantage in relation to a relevant matter (relative to those who are not disabled) where a provision, criterion or practice is applied or where the disadvantage is caused by a physical feature or where they would be put at such a disadvantage if an 'auxiliary aid' were not provided. This may mean, for example, altering recruitment procedures and/or making changes to the work environment if they have a more than minor adverse impact on those who are neurodivergent as compared with those who are not.

2

Continued ...

It is also unlawful for employers to directly discriminate against, or harass, an employee because of their association with a neurodivergent person who falls within the definition of disability, eg as a parent or carer.



An employer is vicariously liable for unlawful discrimination carried out by any of its employees

Unless the employer can demonstrate that it took 'all reasonable steps' to prevent that unlawful conduct. Such reasonable steps might include implementing a policy which covers neurodiversity and establishing a training programme.

It is also important to note public sector employers are required to have due regard to the need to:

Eliminate discrimination, harassment, and victimisation against disabled people

Advance equality of opportunity between disabled and non-disabled people

Foster good relations between disabled people and non-disabled people

There is also specific duties imposed on public sector employers to remove or minimise disadvantages faced by disabled workers, take steps to meet their needs, and encourage disabled workers to participate in public life or in any other activity in which their participation is disproportionately low.

In relation to neurodivergent employees who are classed as disabled this means, in practical terms, that:

There is a duty on public sector employers to proactively remove barriers faced by neurodivergent employees. It is not enough for the employer simply to react as concerns are raised

Public sector employers must prove that it has taken the needs of neurodivergent employees into account when making decisions. For example, if an employer introduces a new policy that negatively and specifically affects neurodivergent employees, then the employer may be acting unlawfully

4

Some practical steps for employers to consider

Recruitment:

The recruitment process itself can be particularly difficult for individuals who are neurodivergent. For example those with autism may have difficulty in standard interviews in answering open-ended questions, making eye contact or interpreting voice tones and facial expressions. It is sensible for employers to consider making appropriate adjustments right from the beginning of a recruitment process.

Suitable adjustments may include

Holding interviews or assessments in suitable, quiet spaces away from other distractions

Presenting materials in easy to read formats

Avoiding ambiguous or subjective language in job descriptions

Clearly explaining interview formats, in particular, informing applicants in advance if they will have to complete tests at interview

Continued ...

Making the workplace an inclusive environment:

Employers should ensure that the workplace is an inclusive environment so that people feel comfortable stating that they are neurodivergent.

Employers should ask existing neurodivergent employees what, if any, challenges they face and for suggestions as to how these can be overcome. The response of employers should be tailored to the particular circumstances of the individual and, where the particular needs or solutions are not obvious, input from an Occupational Health (OH) advisor may be beneficial in identifying the adjustments required.

In its guidance 'Reasonable adjustments at work—Adjustments for neurodiversity', ACAS gives examples of adjustments that could help neurodivergent employees, depending on their needs:

Adjustments to help with concentration might include noise-cancelling headphones, fidget toys, a standing desk, regular breaks throughout the day and a quiet place to work away from distractions

Adjustments to help with written communication might include software to support with reading or writing (eg a screen reader or a speech-to-text programme), talking through written information, breaking down instructions into clear steps, using different coloured backgrounds for documents and signs and extra time to read information and complete tasks

Adjustments to help with organisation and time management might include regular check-ins, visually highlighted planners, extra reminders, breaking work up into smaller tasks and extra time to plan work

Adjustments for sensory overload might include a private, quiet space to go to, changes to dress codes or uniforms (eg to allow for softer materials or calmer colours), noise-cancelling headphones, computer screen filters to reduce brightness and having early warning of changes at work and extra time to process them

Adjustments for poor balance and co-ordination might include specialist equipment (eg a different keyboard or mouse that's easier to use), organising spaces carefully (eg avoiding clutter) and signs giving clear directions around the workplace

Continued ...

Individual assessments:

The assessment of neurodivergent employees should be undertaken on an individually tailored basis. This may consist of:

A diagnostic assessment. This will be directed towards establishing more information about an individual's particular type of neurodivergence and evaluating, for example, the employee's abilities and skills by conducting a number of tests. Many neurodivergent employees will have received a diagnosis during their childhood or adolescence, for example in a Statement of Special Educational Need, an educational psychologist's report, or an Education, Health and Care Plan. It may be possible to obtain a diagnostic assessment through an appropriate organisation, eg the NHS for autism, or the British Dyslexia Association for dyslexia. Your Occupational Health Adviser will be able to guide you as to whether such assessment may be needed.

A workplace needs assessment. This will be solely focused on their role at work and what they need to perform it

It should be remembered that a neurodivergent employee's abilities and workplace needs may change over time and so such assessments should be regularly reviewed, eg particularly if there is a change in job role or tasks. In addition it should be recalled that not all employees with the same condition will have the same abilities and needs to perform their role.

Continued ...

Training and Support:

Training (and understanding) is key for employers. An employer can have the best policy, but without training of, and understanding by, managers, it will fail in its implementation. Training should include, as a minimum, the common challenges shared by neurodivergent employees, such as difficulty some autistic people have in interpreting non-verbal prompts. It should also include the benefit in altering the physical layout of office space, for example to minimise high volumes of noise, as well as other sensory stimuli such as lighting.



It is important that managers focus on identifying what they can do to provide a neurodivergent employee with the particular support and guidance they need to perform at their best

Conduct issues:

In the same way as with all employees, managers should ensure that neurodivergent employees are treated fairly if any issues arise due to their conduct. However, employers should be aware, in particular, of the possibility of claims for unfavourable treatment because of something arising from, or in consequence of, a person's neurodivergent disability.

Employers who are aware that an employee is neurodivergent should consider whether that employee's behaviour may be due to their condition and/or any medication that they may be taking as a result.



We hope you found this helpful, if you having any queries regarding any of the above please do not hesitate to contact your HR Consultant, or Hayley will be able to help where that may be needed.





Duty to Prevent Sexual Harassment

Looking at Reasonable Steps for employers



Duty to Prevent Sexual Harassment

Looking at Reasonable Steps for employers

Taking into account the Equality and Human Rights Commission guidance, HR Connect and Legal Connect have looked at some practical key areas for you to consider when looking at reasonable steps for your school or academy.

Whilst these steps are non-exhaustive and non-definitive, they provide a good model that employers should undertake in discharging their duty to prevent sexual harassment in the workplace.



Duty to Prevent Sexual Harassment

Looking at Reasonable Steps for employers

1

DEVELOP AN EFFECTIVE ANTI-HARASSMENT POLICY

- ▶ Policy commitment to zero tolerance
- ▶ School obligation - reasonably steps
- ▶ Define 'what is sexual harassment?'
- ▶ Outline consequences for breach of policy
- ▶ Process for responding to complaints

2

ENGAGE YOUR STAFF

- ▶ Staff aware how to report
- ▶ Staff aware how to access policy
- ▶ Encourage open dialogue about sexual harassment
- ▶ Awareness approached in 121's
- ▶ Open door policy in place
- ▶ Raise awareness at staff briefings
- ▶ Access feedback through staff surveys and exit interviews

3

ASSESS AND TAKE STEPS TO REDUCE RISK IN YOUR WORKPLACE

- ▶ Consider all risk factors
- ▶ Identify levels of risk (H/M/L)
- ▶ Identify measures needed to minimise risk
- ▶ Review risk and measures in place

4

REPORTING

- ▶ Establish confidential and accessible channels to report incidents
- ▶ Ensure reporting methods are well-publicised
- ▶ Governor monitoring and reporting of SLT implementation and delivery
- ▶ Gather data on incidents to identify patterns and trends

5

TRAINING

- ▶ Mandatory training for all staff and governors including volunteers
- ▶ Tailored to roles e.g. SLT, employees, governors
- ▶ Annual refresher training
- ▶ Ensure included in induction training
- ▶ Keep records of attendance to training

6

WHAT TO DO WHEN A HARASSMENT COMPLAINT IS MADE

- ▶ Act promptly
- ▶ Establish how the individual wants it resolved
- ▶ Respect confidentiality of all parties
- ▶ Protect complainant and witnesses from harassment/victimisation
- ▶ Ensure staff are supported
- ▶ Communicate outcome in a timely manner
- ▶ Training for investigation officers

7

DEALING WITH HARASSMENT BY THIRD-PARTIES

- ▶ Know who your third party contractors, partners and suppliers are
- ▶ Treated just as seriously
- ▶ Steps taken to prevent this type of harassment
- ▶ Assurance from third-parties

8

MONITOR AND EVALUATE YOUR ACTIONS

- ▶ Review information and formal complaints data for trends
- ▶ Survey staff anonymously
- ▶ Hold lessons learned sessions after any complaints
- ▶ Analyse exit interviews
- ▶ Monitor and review risk assessments
- ▶ Evaluate practice via checklist and self-assessment tools

Handling Sexual Harassment Complaints: A Practical Guide for Employers

Duty to Prevent Sexual Harassment
Looking at Reasonable Steps for employers

Receive the Complaint

- **Acknowledge promptly:** Confirm receipt and outline next steps within 24-48 hours.
- **Listen without judgment:** Ensure the complainant feels heard and supported.
- **Maintain confidentiality:** Only share details with those who need to know.

Hold a Meeting

- **Arrange to meet and invite a companion:** Allow the complainant to bring a colleague or union rep.
- **Use neutral language:** Avoid implying blame or disbelief.
- **Document thoroughly:** Keep accurate notes of the discussion.

Establish the Facts

- **Gather all evidence:** Emails, CCTV, witness statements, etc.
- **Appoint an impartial investigator if required:** Someone not involved in the complaint.
- **Follow a clear process:** Use a consistent and transparent investigation framework.

Determine the Outcome

- **Communicate clearly:** Inform both parties of the outcome and rationale
- **Apply proportionality:** Sanctions should reflect the severity of the misconduct.
- **Record decisions:** Keep a secure record for legal and HR purposes.

Appeal

- **Offer a clear route:** Outline how and when to appeal.
- **Use a different decision-maker:** Ensure impartiality in the appeal review.
- **Respond in a timely manner:** Aim to conclude appeals within a set timeframe.

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Disclaimer: Please ensure any action taken is in line with your own Policy for managing sexual harassment complaints.

Duty to Prevent Sexual Harassment School Toolkit

The Workers Protection Act 2023 came into force in the UK on 26th October 2024. Every employer in the UK will now have a legal duty to work proactively – and not retrospectively – to address sexual harassment in the workplace.

Our powerful Duty to Prevent Sexual Harassment School Toolkit, priced at £325 (+VAT), features 10 education specific tools and easy to use downloads and templates, to support Schools and Academies to comply with the new legal duty. See contents and sample pages below.

Resources in the Toolkit include:

Bullying and Harassment Policy | Guidance Booklet | Checklist for Employers | Risk Assessment
Support Organisations Information Sheet | Training Obligation Matrix | Annual Self-Assessment tool
Posters | Template Letter to All Staff | Policy Statement

Scan the QR code to visit the Toolkit information page or click on the button below

Click here to find out more

Contact us: info@hrconnect.org.uk | www.hrconnect.org.uk | 0330 124 9996

[SCHOOL/ACADEMY] Training Obligations Matrix: Duty to Prevent Sexual Harassment (from 26th October 2024)

Training that is simply a tick box exercise will not be sufficient under this new duty. Training should be tailored, bespoke, relevant to the risks alive in the School/Trust, designed for particular employee audiences and undertaken at least annually. Employers should keep a written record of employee attendance at training events.

	SLT and Managers	Governors and Trustees	All Staff	Volunteer/ Contractor
Overview of the Duty to Prevent Sexual Harassment	✓	✓	✓	✓
Leadership responsibilities and accountability	✓			
Governance responsibilities and oversight		✓		
Definition and examples of sexual harassment	✓	✓	✓	✓
Rights and responsibilities under the new duty	✓	✓	✓	

(Image cover: training page 1)

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Types of Sexual Harassment

Sexual harassment is unwanted behaviour of a sexual nature which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them (Equality Act 2010).

Verbal/Written

Unwanted verbal abuse, or comments relating to appearance or body.

Unwanted written abuse, or comments relating to appearance or body.

Unwanted verbal or written abuse that is intended to humiliate or offend.

Unwanted written or verbal abuse that is intended to humiliate or offend.

Unwanted verbal or written abuse that is intended to humiliate or offend.

Physical

Any form of physical contact of a sexual nature, including touching, grabbing, hugging, kissing, rubbing, stroking or fondling.

Unwanted physical contact of a sexual nature, including touching, grabbing, hugging, kissing, rubbing, stroking or fondling.

Unwanted physical contact of a sexual nature, including touching, grabbing, hugging, kissing, rubbing, stroking or fondling.

Non-Verbal

Unwanted non-verbal behaviour of a sexual nature, including staring, leering, or making lewd or suggestive comments.

Unwanted non-verbal behaviour of a sexual nature, including staring, leering, or making lewd or suggestive comments.

Unwanted non-verbal behaviour of a sexual nature, including staring, leering, or making lewd or suggestive comments.

Visual

Displaying sexually explicit images, pictures, posters, or material on equipment.

Displaying sexually explicit images, pictures, posters, or material on equipment.

Displaying sexually explicit images, pictures, posters, or material on equipment.

Other

Unwanted behaviour of a sexual nature, including any form of sexual harassment, which is not covered by the other types of sexual harassment.

Unwanted behaviour of a sexual nature, including any form of sexual harassment, which is not covered by the other types of sexual harassment.

Unwanted behaviour of a sexual nature, including any form of sexual harassment, which is not covered by the other types of sexual harassment.

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This form is designed to be used to comply with your Employer's duty to take 'reasonable steps' to protect staff from sexual harassment in the workplace. Schools and Trusts should identify and assess the risks of sexual harassment in the workplace and identify the measures that are necessary to prevent, protect and support staff. Schools and Trusts should review these measures (including the form) at least once a year and update them as necessary.

Please keep a copy of this as a record that the School/Trust has considered the risk factors and that actions have been taken to prevent, protect and support staff. Schools and Trusts will also need to review this on an annual basis or if a new risk factor is identified and/or changes are made to an existing one. Your assessment should identify if there is a need to undertake a separate assessment or a whole school or trust assessment.

(SCHOOL/TRUST/DEPARTMENT/TEAM)

Assessor: _____

Date of Assessment: _____

Assessment sign-off: _____

Date of Assessment sign-off: _____

Risk Factors	Who might be at risk and why?	What measures are currently in place to prevent the risk?	Risk Level (1-5)	What measures need to be taken to prevent the risk?	Why is this necessary?	Date for next assessment	Date for next assessment
Example 1: Unwanted verbal or written abuse relating to appearance or body.	All staff - this is a risk for all staff.	All staff - this is a risk for all staff.	1	All staff - this is a risk for all staff.	All staff - this is a risk for all staff.	30/10/24	30/10/24
Example 2: Unwanted physical contact relating to appearance or body.	All staff - this is a risk for all staff.	All staff - this is a risk for all staff.	1	All staff - this is a risk for all staff.	All staff - this is a risk for all staff.	30/10/24	30/10/24
Example 3: Unwanted non-verbal behaviour relating to appearance or body.	All staff - this is a risk for all staff.	All staff - this is a risk for all staff.	1	All staff - this is a risk for all staff.	All staff - this is a risk for all staff.	30/10/24	30/10/24

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Duty to Prevent Sexual Harassment On Demand Training

Our Duty to Prevent Sexual Harassment training is here to help you create a safe, respectful, and legally compliant environment for your School or Academy. Tailored for every level of staff, this training is essential for fostering a culture of respect and understanding; to support compliance with the new legal duty.

Our training has been split into three modules:

Module 1 | All Staff Training (including volunteers)

60-90 minutes

- Overview of the Duty to Prevent Sexual Harassment looking at rights and responsibilities under the new duty;
- Definition and examples of Sexual Harassment;
- How to recognise and report in your workplace; and
- Overview of unacceptable behaviours and consequences.

Module 2 | Senior Leadership Team/Line Manager Training

60-90 minutes

- Role of Leaders in preventing sexual harassment;
- Understanding your legal obligations and implications, creating, maintaining and monitoring a harassment free culture;
- How to handle sexual harassment complaints;
- Third-party harassment and supporting affected employees.

Module 3 | Governor/Trustee Training

60-90 minutes

- The Board's strategic responsibility with regards to the new duty as the Employer
- Practical Steps on monitoring and evaluating school effectiveness of the new duty
- Effective management and wider implications of Sexual Harassment complaints with Senior Leaders
- Risk management

Have a question?

Email us at info@hrconnect.org.uk
or Scan QR code for more
information





Enhancing Performance Management and Capability in Schools

Looking for expert HR advice?

Request a free 15 minute consultation with our team

0330 124 9996 info@hrconnect.org.uk

Enhancing Performance Management and Capability in Schools

In the ever-evolving landscape of education, ensuring optimal performance among staff members is crucial for the success of a school. However, effectively managing performance while maintaining a supportive and conducive work environment can be challenging. In this article we will delve into strategies to enhance performance management and capability within schools, equipping educational leaders with practical tools to navigate through the complexities of identifying, addressing, and resolving performance issues.

Contents

Understanding Performance Management

Identifying Poor Performance

Differentiating Between Conduct and Capability Issues

Holding Difficult Conversations

Navigating Through Informal and Formal Capability Processes

Practical Tools for Performance Management

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Enhancing Performance Management and Capability in Schools

Understanding Performance Management

Performance management in schools encompasses a range of processes aimed at optimising the performance of staff members. It involves setting clear expectations, providing feedback, offering support and development opportunities, and addressing any performance issues that may arise. An effective performance management system not only fosters continuous improvement but also ensures accountability and alignment with the school's objectives.

Identifying Poor Performance

The first step in enhancing performance management is the ability to identify poor performance accurately. This requires a systematic approach, including regular monitoring and evaluation of staff performance against predetermined criteria and standards. Key indicators of poor performance may include declining pupil outcomes, consistent failure to meet deadlines or targets, or a lack of engagement and enthusiasm in the workplace.

Differentiating Between Conduct and Capability Issues

It's essential to differentiate between issues related to conduct and those related to capability when addressing performance issues. Conduct issues typically involve breaches of professional conduct or misconduct, such as unprofessional actions in the classroom or unethical behaviour. Capability on the other hand, relate to an employee's ability to perform their duties effectively, such as a lack of skills, knowledge, or competence required for their role. A quick way to help differentiate between capability and conduct is 'Can't Do' and 'Won't Do'. An employee who can't fulfil the duties of the role due to competency, skills and ability versus an employee who won't do duties of the role because they are choosing not to do them.

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Enhancing Performance Management and Capability in Schools

Holding Difficult Conversations

One of the most challenging aspects of performance management is having those difficult conversations with staff members about their performance. These conversations require sensitivity, empathy, and effective communication skills. It's essential to approach such discussions with a focus on constructive feedback, offering support and guidance to help the individual improve their performance rather than placing blame or criticism.

Navigating Through Informal and Formal Capability Processes

When performance issues persist despite supportive interventions, it may be necessary to initiate formal capability processes. These processes typically involve a structured approach to addressing performance concerns, including setting clear objectives for improvement often set out in a separate Performance Improvement Plan, providing additional support and training where necessary, and monitoring progress over a specified period. We often use SMART objectives at this stage in a formal capability process. However, it's crucial to exhaust informal avenues for support and intervention before resorting to formal processes, prioritising a collaborative and supportive approach wherever possible.

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Enhancing Performance Management and Capability in Schools

Practical Tools for Performance Management

To support performance management and capability enhancement in schools, educational leaders can utilise a range of practical tools and resources:

- **Performance Appraisals:** Regular performance appraisals provide an opportunity for constructive feedback, goal setting, and professional development planning.
- **Performance Improvement Plans (PIPs):** PIPs outline specific goals, targets, and actions for addressing performance issues and monitoring progress over time.
- **Coaching and Mentoring:** Providing coaching and mentoring support can help employees identify areas for improvement, develop new skills, and enhance their performance.
- **Training and Development Opportunities:** Offering relevant training and development opportunities can help address skill gaps and enhance staff members' capabilities in their roles.
- **Peer Support Networks:** Establishing peer support networks or professional learning communities can facilitate knowledge sharing, collaboration, and peer-to-peer support among staff members.

Enhancing performance management and capability within schools requires a multifaceted approach that emphasises clear expectations, regular feedback, supportive interventions, and structured processes for addressing performance issues. By equipping educational leaders with practical tools and strategies, schools can foster a culture of continuous improvement, accountability, and excellence, ultimately enhancing outcomes for both staff and pupils alike.

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