

KEEPING IN TOUCH WITH HR



Welcome to the spring edition of the Schools HR Newsletter. We hope you were all able to take a break over the festive period and hope you are all keeping safe and well throughout this difficult time



Further clarity provided on agency worker regulations

The Agency Worker Regulations 2010 provide agency workers with various rights. These include the right to the same basic working and employment conditions as they would be entitled to as a directly-recruited employee, including the right to be informed of any relevant vacancies at their place of work. These rights have been clarified further by the Employment Appeal Tribunal in *Angard Staffing Solutions Ltd v Kacor*.

- Whilst agency workers have the right to be informed of available vacancies within the organisation they are working for, it does not mean they have a right to be entitled to apply, and be considered for, internal vacancies on the same terms as directly-recruited permanent employees.
- The regulations do not entitle agency workers to work the same number of contractual hours as a directly-recruited worker.
- There is no suggestion of a requirement for the equality of treatment regarding the content of their working time. For example, in this case the directly-recruited employees were given training whilst the agency workers were expected to continue in working. This was deemed not to be a breach of regulations.
- Equality of treatment in relation to overtime does not extend to a right of equality of treatment in respect of the opportunities for overtime. Meaning you can offer permanent employees overtime without offering agency workers overtime.
- The entitlement to equal treatment in relation to pay did not extend to a right to the same information on payslips. For instance, in this case agency workers payslips provided fewer details than those of the directly-recruited employees. This was deemed not to be a breach of regulations.
- How and when breaks are taken did not fall within the scope of the Regulations. Breaks can be scheduled differently between directly-recruited and agency employees, for example some can be at regulated times and others can be taken flexibly. This shouldn't be confused with the duration of breaks, which both agency and directly-recruited employees have an equal right to.

Would you like to attend our next HR networking event?



We're excited to confirm that our next HR networking event is scheduled for **Wednesday 24th March 2021 at 10am**.

This virtual event is a great opportunity for those of us working in roles with a HR responsibility to get together to share and discuss our experiences. Our event launch last year was a great success and we've received some really positive feedback, with attendees finding it both useful and informative. It's a really great way to further expand your own network within the schools community.

The session is designed to be interactive and we want you to help us decide what we discuss – it's your choice! If you'd like to attend, please send us your contact details and any topics you'd like us to talk about, to hrschools@gloucestershire.gov.uk by 5pm on Friday 12th March 2021.

If you'd like to see the terms of reference and the previous agenda before you sign up, you can find these on the Schoolsnet pages [here](#).

NEW!

Schoolsnet pages

We've recently launched our new look [Schoolsnet pages](#)! What do you think? Please get in touch with us at hrschools@gloucestershire.gov.uk good or bad we'd love to hear all of your comments and suggestions.

Case Law Update: religious beliefs and discrimination



The case of Higgs v Farmors School considered whether Christian beliefs around gender constituted as protected beliefs under the Equality Act 2010.

Mrs Higgs shared two posts on her private Facebook account criticising the teaching of LGBTQ+ relationships at her son's primary school. She also shared a petition requesting other parents sign up to stop relationship education becoming compulsory for young children.

Mrs Higgs was employed in the school as a pastoral administrator and work experience manager. The school's head teacher received an anonymous complaint stating that they found these views to be "homophobic and prejudiced against the LGBT+ community." Following an investigation and disciplinary hearing, Mrs Higgs was dismissed for gross misconduct.

FREE!

Wellbeing Webinars

Occupational Health are offering free wellbeing webinars for schools staff. The next session '**How to promote and maintain the physical health of school staff**' is live on both 17th March 2021 and 31 March 2021, at 3:45pm. This webinar will discuss the link between physical health and emotional wellbeing, and will include some great tips on how to stay active.

These sessions will have ample opportunities for questions and answers, along with a chance to 'ask the OH expert' on any health topic so don't miss out!

If you'd like to attend either of these sessions, please email the team at ohu@gloucestershire.gov.uk

Mrs Higgs brought forward a claim that she had suffered direct discrimination and harassment by the school due to her religious views. Whilst the tribunal accepted that Mrs Higgs' beliefs were protected under the Act, it found that she had not been discriminated against or harassed. Instead it ruled that she had been dismissed by the school because of the way in which she had chosen to share her views.

The tribunal decided that these posts on Facebook might have reasonably lead people to conclude that Mrs Higgs was homophobic and transphobic. It was that behaviour that the school felt had the potential for a negative impact in relation to pupils, parents, staff and the community and therefore led to her dismissal.

This is a helpful case for Schools who increasingly have to balance competing protected characteristics in the workplace. Whilst religious beliefs are protected, this does not mean employees should express their beliefs in a way which insults or discriminates against others. Mrs Higgs has since appealed against this ruling - further guidance may follow on this.

Purchase your HR Service for 2021/22

The maintained schools buy back period is now open and is due to close again in April. You can purchase your HR service for 2021/22 [here](#).

Don't forget to take a look at our [proactive absence management](#) package. This package gives you an easier way to effectively manage staff absence with our user-friendly spreadsheet tool.

Each term, you'll receive reports identifying staff absence, helpfully broken down by employee group, reason for absence or absence length (short or long-term) making it much easier to identify and manage any trends. [Available now](#).



Access to the HR advice service for subscribers is through [ContactUs 01452 425888](#), Option 2 then Option 4 or e-mail ContactUs@gloucestershire.gov.uk

ContactUs is staffed by experienced HR professionals from 8.30am until 5pm Monday to Friday.