

KEEPING IN TOUCH WITH HR

Welcome to the winter edition of our Schools Human Resources (HR) Newsletter.

We hope you enjoyed the Christmas break and would like to wish you all a happy and healthy new year. We look forward to working with you in this new academic term.

Right to work – what has changed?

On 17 December the Home Office published updated guidance on [the right to work checks for employers](#). The guidance contains significant changes to the UK's right to work check system following the end of the Brexit transition period on 31 December 2020 and the subsequent grace period for checking the right to work of EEA and Swiss nationals (collectively referred to as "EEA nationals") on 30 June 2021.

How does the new guidance affect EEA nationals?

- From 1 July 2021, EEA nationals can no longer rely on an EEA passport or national identity card to prove their right to work in the UK, and their qualifying family members can no longer rely on residence documents (such as an EEA family permit or an EEA residence card) or a biometric residence card issued under the EEA Regulations.
- Annex A contains a quick reference tool which sets out the documentation acceptable as proof of right to work in the UK for those with an [indefinite right to work in the UK](#) and those with a [limited right to work in the UK](#).
- Annex B of the guidance addresses a variety of scenarios affecting EEA nationals' right to work in the UK and sets out the steps that employers must follow, including in relation to frontier workers and EEA nationals who have not made an application under the EU settlement scheme.

When does the new right to work guidance apply?

The guidance applies to right to work checks carried out from 1 July 2021. It applies both to:

- new employees
- existing employees (in limited circumstances).

A school must ensure that the right to work check is carried out in line with the appropriate guidance at the date of the check to ensure against a civil penalty for employing a migrant worker illegally.

Are there any concessions under the EU settlement scheme?

Where an EU settlement scheme application is pending, to conduct a compliant right to work check from 1 July

2021, the employer will need to ask the employee for the Certificate of Application or email or letter from the EU settlement scheme confirming that the employee has made the application and obtain a Positive Verification Notice through the [Home Office employer checking service](#).

Teachers' Pay Award

The Education Secretary has written this month to the chair of the School Teachers' Review Board (STRB) seeking recommendations on the 2022/23 and 2023/24 pay awards.

The STRB is being asked to make recommendations on how progress towards a £30,000 starting salary (for outside London) could be achieved through pay uplifts across the workforce and can be delivered in a way that is affordable across the school system. The Education Secretary has requested that the STRB report is required by May 2022 at the latest.

NJC 'Green Book' Pay Award

Following the unions' rejection of the National Employers full and final pay offer for local government services ('Green Book') employees, the unions have now confirmed their next steps in the pay dispute.

The unions are currently conducting ballots of their members, and given that one ballot does not close until mid February, it is unlikely that there will be any update for a few months.

We will keep you updated.





Queen's Platinum Jubilee

In July 2021 the Schoolsnet Bulletin Board posted an [article about the Queen's Platinum Jubilee](#) in relation to the Government having laid legislations to reduce the minimum number of sessions schools are required to meet the academic year 2021 to 2022.

Teachers:

The Department for Education plans to make an amendment to the School Teachers Pay and Conditions Document (STPCD) for the academic year 2021-22 that reduces the number of days that teachers need to be available to work from 190 (+5 inset days) to 189 (+5 inset days) and will also reduce the number of directed hours by 6.5. The total school year will therefore be 194 days. Therefore, if the additional bank holiday for the school falls within a half-term, you may wish to amend the end of term to the 21st July 2022 to reflect the regulations for next academic year in line with Gloucestershire's recommended term dates.

Gloucestershire school term dates can be found [here](#).

Green Book employees:

The National Joint Council (NJC) recognises that because of the different remuneration arrangements in schools, there is no one-size-fits-all approach to whether, and how, to adjust Term-Time Only (TTO) pay and leave entitlement to take account of the additional bank holiday. However, all employers will need to ensure that part-time staff are provided with a pro-rata entitlement for the additional bank holiday proportionate to any entitlement granted to full time employees.

Where there is a reduction in the working year of the TTO employee

The vast majority of TTO staff are contracted to work either 38 or 39 weeks a year (190 or 195 days per year). The NJC advises that in cases where the reduction in the school year means that employers will now require employees to work either 189 days or 194 days respectively in 2021-22, one approach to providing the additional bank holiday entitlement would be to make no adjustment in the remuneration arrangements for these TTO employees. This will provide these TTO employees with paid leave for the bank holiday as they will receive the same pay but work one day less.

However, for some TTO employees, whether they will benefit from the bank holiday will depend on their working pattern. Where a part-time employee would have been at work on the day of the bank holiday (or the day in the school year which is no longer one of the 190 days of directed time), they should continue to receive pay for this time (as above). This will give them paid leave for the additional bank holiday.

Where there is no reduction in the working year

However, where a part-time employee's working pattern means that they are still working for the full number of days / hours, for which they are contracted to work annually, they will need to be given an additional pro-rata paid leave entitlement to reflect the additional bank holiday. We advise you speak to your payroll provider should any adjustments need to be made to employee's salaries.

Source: NJC circular for Green Book aspect.

Statutory Sick Pay Temporary Change to Self Certification

The Government has made temporary changes to the self-certification procedure for Statutory Sick Pay (SSP). Normally an employee can self-certify for the first seven days of sickness absence but the Statutory Sick Pay (Medical Evidence) Regulations 2021, which came into force on 17 December 2021, have temporarily changed this so that an employee can self-certify for the first 28 days of sickness. The provisions will apply to sickness commencing in the period from 10 December 2021 up to 26 January 2022.

Whilst contractual sick pay in most cases is considerably more than SSP and therefore has its

own contractual requirements in respect of providing certified medical evidence, it is clear that many employees could find it very difficult to produce such medical evidence during this period. Employers should therefore act reasonably in seeking medical evidence during this time.

We advise that during this short period of time an employee should not have to provide evidence in line with the 28 days self certification to receive contractual sick pay.

Source: Insight South West

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.