

Education Update: HR & Wellbeing

Delivered by Elaine Hammond, HR Assistant
Director, EPM and Eve Springbett, HR
Assistant Director, EPM



Agenda

- Reopening of schools
- Pay updates for teaching and support staff
- Public Sector Exit Payments Regulations 2020
- Brexit
- The Harper Trust vs Brazel
- Case studies
- Staffing reduction and redundancy
- EPM academy suite of policies

Elaine Hammond, HR Assistant Director

A Member of the Chartered Institute of Personnel and Development, Elaine joined EPM in 2014. She has worked in education HR for the last two decades. Prior to EPM, Elaine worked for a large Local Government shared service provider as an HR Business Partner, where she led a business-focused HR Team. Elaine has extensive experience in supporting and advising on complex casework and large-scale change programmes. On a day-to-day basis, she provides strategic HR solutions to Trusts, Headteachers and other school leaders. Elaine has business partnered with a number of Trusts on their journey from initial formation to their current status of 'large Trust'. Elaine is particularly skilled in employee relations and supporting on the delivery of complex change programmes.

Eve Springbett, HR Assistant Director

Eve joined EPM in 2011 and has completed her CIPD level 7. She has worked her way up through the company from HR Administrator to HR Adviser to HR Manager and was appointed HR Assistant Director in 2017. Eve has extensive knowledge of HR in the education sector and is particularly skilled in dealing with complex HR issues, trust-wide policy development and complex negotiations. She also develops and delivers training and development programmes to HR leaders in the education sector.

Full Re-opening of Schools

- Schools fully re-opened on 8 March 2021
- CEV staff strongly advised to work from home/not attend work with a current review date of 31 March 2021
- Some CEV requesting to return following vaccinations - consider your insurance position and applying individual risk assessments
- Bubbles are still referred to in the guidance as well as social distancing /hygiene although staff can work across bubbles if it is required
- Staff/pupils can now undertake tests at home
- The furlough scheme has been extended until 30 September 2021
- Voluntary vaccination programme
- Please see our FAQs which are regularly reviewed [here](#)



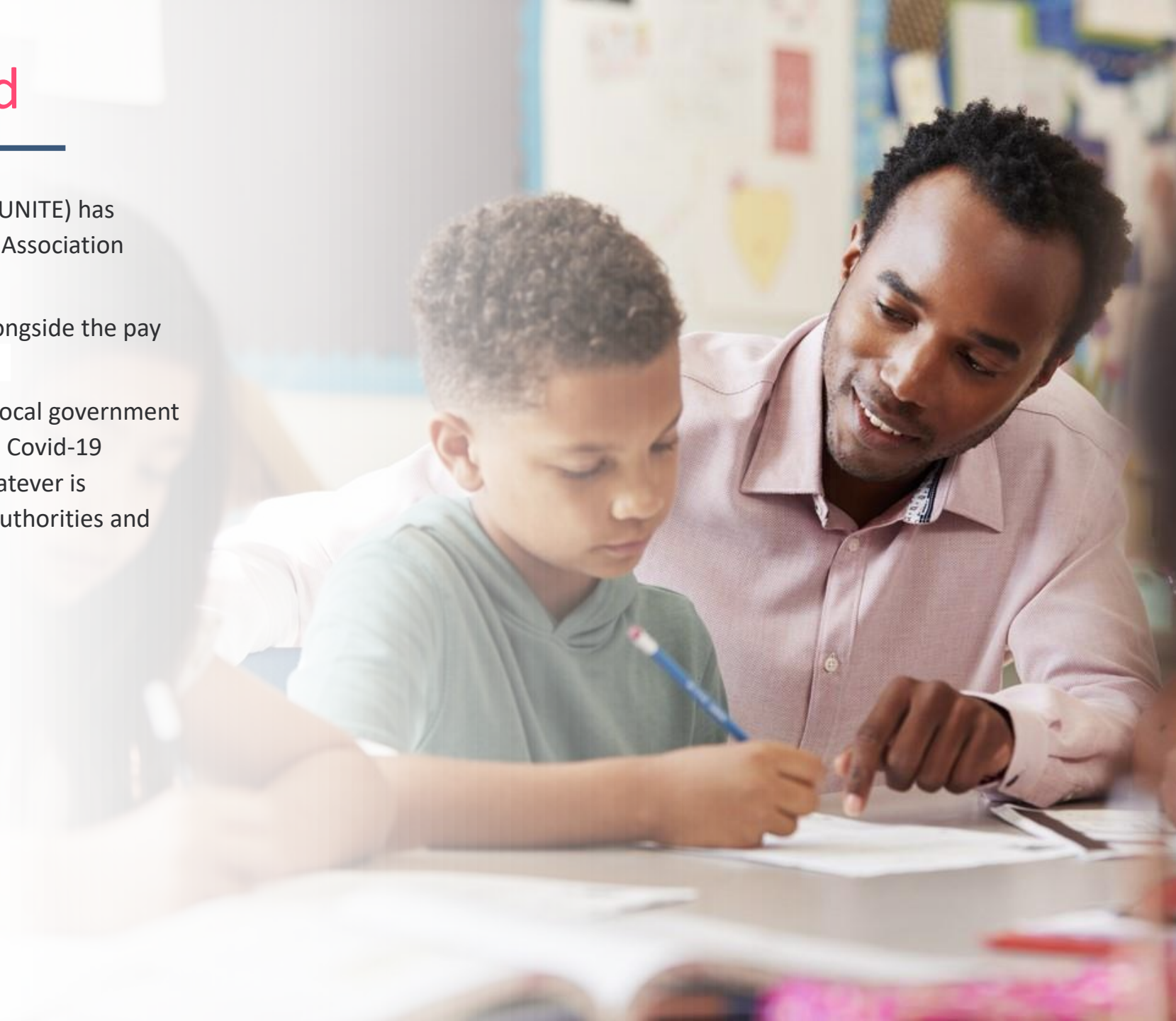
School Teachers' Pay and Conditions Document

- Secretary of State wrote to the Chair of the STRB on 15 December 2020 asking for a recommendation on the September 2021 pay award
- The letter indicated the recommendations should only focus on teachers earning less than £24,00 FTE, i.e., unqualified teachers
- Evidence to support that letter can be found [here](#)
- It recognises the efforts made by teachers during the pandemic, however, the recommendation to pause public sector pay growth is due to the pandemic and in order to protect jobs and invest in public services
- There is still a commitment for starting salaries to be £30,000 in order to aid retention
- Recommendation for those earning less than £24,000 to receive a minimum of £250 increase
- ASCL, NAHT, NEU and the Voice have asked the STRB to defy minister's wishes for a pay award for the lower paid only - their joint statement can be found [here](#)



Support Staff Pay Award

- The Joint Trade Union Side (UNISON, GMB and UNITE) has submitted their claim to the Local Government Association referring to a 10% increase on all pay points
- They have also submitted a conditions claim alongside the pay claim
- They refer to the context of the claim as being local government workers have kept the country going during the Covid-19 crisis and the Government promised to do “whatever is necessary to support these efforts” and Local Authorities and their staff expect them to be true to their word



Support Staff Pay Award

In the conditions part of the claim they list the following:

- Introduction of a homeworking allowance for all staff who are working from home
 - A national minimum agreement on homeworking policies for all councils
 - A reduction of the working week to 35 hours with no loss of pay, and a reduction to 34 hours a week in London - part-time staff to be given a choice of a pro rata reduction, or retaining the same hours and being paid a higher percentage of FTE
 - A minimum of 25 days annual leave plus public holidays and statutory days for all starting employees, plus an extra day holiday on all other holiday rates that depend on service
 - An agreement on a best practice national programme of mental health support for all local authorities and school staff
 - A joint review of job descriptions, routes for career developments and pay banding for school support staff, and completion of the outstanding work of the joint term-time only review group
 - A joint review of the provisions in the Green Book for maternity/paternity/shared parental/adoption leave
-
- Councils will be consulted this month about the 2021 pay claim for 'Green Book' staff
 - The employers will not be responding to the claim before the 6 May local elections and cannot give a more specific indication of a timetable beyond that date

Exit Cap and Changes to Compensation

- The Restriction of Public Sector Exit Payments Regulations 2020 came into force on 4 November 2020
- A cap of £95,000 on the pre-tax aggregate value of exit payments for public sector workers
- Legislation passed in 2015, enabling the Government to make Regulations to impose the cap, but it was significantly delayed
- Outcome from LGPS consultation has not been implemented so no changes to the scheme officially made
- On 12 February 2021, the Government suspended the Regulations whilst the formal process of revocation takes place
- Employers must pay out additional sums prevented by the cap
- The Government has confirmed that *“HM Treasury will bring forward proposals at pace to tackle unjustified exit payments”*





Brexit

Post-Brexit Employment of Skilled Workers

- Schools and MATs who were a licenced sponsor were automatically granted a new skilled worker licence with an expiry date consistent with their current licence, and received an appropriate allocation of Certificates of Sponsorship
- Those who did not and wish to employ skilled workers from the EU through this route will need to apply for a sponsorship licence before being able to do so
- EPM issued an advice note in August 2020 **'The Immigration & Social Security Co-ordination (EU Withdrawal) Bill 2020'**
- Further route 'Highly skilled worker visa for people without a job offer' likely to be available in 2022

Continuing to Employ EEA Citizens

- EA or Swiss citizens who were living in the UK by 31 December 2020 have until 30 June 2021 to apply to the [EU Settlement Scheme](#)
- Right to work checks for EEA citizens will not change until after 30 June 2021. Until then, EEA citizens can use their passport or national identity card to evidence their right to work
- During this time, employers will not be expected to differentiate between EEA citizens who arrived before the end of the transition period (31 December 2020) and those arriving afterwards, in the grace period from 1 January to 30 June 2021
- New guidance on how to conduct right to work checks on EEA citizens after 30 June 2021 will be provided in advance of this date
- Our contract templates have been updated to reflect the changes

The Harper Trust v Brazel

- The Court of Appeal had ruled in favour of Lesley Brazel, a music teacher at Bedford Girls' School, during their term time
- Holiday pay was calculated as a percentage of yearly hours worked (12.07%)
- The Court of Appeal ruled that in this case, it should be based on average weekly pay over a 12 week period (now 52 week period) to ensure that the minimum annual leave required in the Working Time Directive (20 + 8 days) is paid
- Supreme Court hearing is on 9 November 2021 - EPM will keep you informed of developments
- Where EPM hold staffing data, our consultancy team can identify any TTO+ workers who do not receive the statutory working time directive leave entitlement as part of the pro-rata calculation for their salary



Case Law – Redundancy

UQ v Marclean Technologies SLU, European Court of Justice

- When determining the number of employees to be dismissed in a 90-day period for the purposes of assessing the obligation to conduct collective redundancy consultation, any period of 90 days during which a relevant dismissal occurs should be considered, not just the preceding 90 days
- There are no set rules to follow if there are fewer than 20 redundancies planned, but it's good practice to fully consult employees and their representatives - an employment tribunal could decide that you've dismissed your staff unfairly if you do not
- You must follow 'collective consultation' rules if you're making 20 or more employees redundant within any 90-day period at a single establishment
- Consultation does not have to end in agreement, but it must be carried out with a view to reaching it, including ways of avoiding or reducing the redundancies
- Consult with trade union representatives or elected employee representatives - or with staff directly if there are none (unlikely in the education sector)
- Provide information to representatives or staff about the planned redundancies, giving representatives or staff enough time to consider them
- Respond to any requests for further information
- Issue redundancy notices once the consultation is complete

Case Law – Equality

“When defending a claim of race discrimination can an employer rely upon Equality and Diversity training delivered several years ago, to evidence that that they had taken reasonable steps to prevent the discrimination?”

No, held the EAT in *Allay (UK) Ltd v Gehlen* (UKEAT/0031/20) as the training had taken place several years before the events in question took place and was ‘clearly stale’.

Points to consider:

- How up to date and effective is your training?
Embedded, culture of understanding equality, not just a tick box
- Are refresher sessions required?
- Do you policies, procedures etc, support and embed the training within the organisation?
- Are colleagues and managers encouraged to report/deal with behaviour that may concern them?
- As the case shows brief and superficial training is unlikely to have a substantial effect on preventing harassment and have a long-lasting impact

EPM Equality Training

Join our half day session which can be delivered remotely or in person

What are the benefits?

- Gain an overview of the Equality Act
- Improved understanding of the Equality Act, Equality and Diversity
- Reduced discrimination
- Increased understanding of roles and responsibilities
- Improved quality of policies
- Improved assessments and processes
- Improved complaint management

Email consultancy@epm.co.uk to find out more





Jane Warburton, Senior Schools & Academies HR Partner

Jane Warburton is one of the Senior Partners at Avec with specific responsibility for HR. Jane is a fully qualified member of the Chartered Institute of Personnel and Development (MCIPD) and with over 20 years' experience, 15 of which have been in Education HR, has developed a wealth of knowledge in both strategic and operational HR. Jane oversees all aspects of operational HR within our Schools and Academies as well as being the HR lead for two growing Multi-Academy Trusts.



Pamela Mee, Senior HR Partner

Pam has a BA honours degree in Human Resource Management and Fellow within the Chartered Institute of Personnel and Development. Pam has worked in Human Resources for 23 years in both public and private sector. Pam commenced work with Avec in May 2012 and since then has worked on a large number of Academy conversions including the formation of a number of Multi-Academy Trusts. Pam is experienced in advising complex Multi-Academy Trusts and has forged excellent working relationships with senior management teams to ensure that the human resources agenda meets the needs of individual schools and Trusts.

Staffing Reduction and Redundancy

Legal Framework

- Redundancy is one of the fair reasons for dismissal
- Redundancy is defined as a dismissal wholly or mainly attributable to either;

the fact that his employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him, or has ceased, or intends to cease to carry on that business in the place where the employee was employed

Or

the fact that the requirements of that business for employees to carry out work of that particular kind in the place where he was so employed have ceased or diminish or are expected to cease or diminish.

(sec 139 Employment rights Act 1996)



Statutes Covered

- Redundancy notification and consultation
- The rights of elected representatives for the purposes of the statutory requirement to consult over redundancies
- The right not to be unfairly selected for redundancy
- The right to time off to look for work or make arrangements for training
- Statutory redundancy payment scheme
- Discrimination
- Case law



Staffing Reduction Process



Preparation and
planning

Policies and
procedures

Conducting the
process

Roles and
responsibilities

Things to Consider

1

How do you keep up morale?

2

Do you know your redundancy formula?

3

Redundancy Modification Order

4

LGPS

Getting it Wrong

Tribunal claims that could arise from getting it wrong

- Redundancy notification and consultation
- Unfair dismissal
- Constructive dismissal
- Wrongful dismissal
- Discrimination
- Employee relations and morale



Academy Suite of Policies

A framework of template policy documents which are specifically designed for Academies and Trusts

The approach differs from traditional HR policies – each individual 'staffing procedure' is designed to sit under one overarching 'staffing policy statement'

- Improves the consistency of application of staffing procedures within a Trust
- Avoids the repetition of key information traditionally found in every staffing policy and procedure
- Individual staffing procedures are more concise and user-friendly

Available for EPM customers on www.epm.co.uk



Live Q&A Session – 20 April

Join our experts from EPM, Avec and Southalls on
Tuesday 20th April from 2.00 - 3.00pm

We will be discussing the following topics:

Governance
Finance
Health & Safety
HR
Payroll
Safer Recruitment
Wellbeing

You can submit your questions in advance or ask them
live on the day.

We look forward to seeing you there!



A group of four business professionals are seated around a table in a modern office setting with large windows overlooking a city. A woman on the left is gesturing while speaking. A man next to her is listening intently with his hand on his chin. Another man with glasses is also listening. A fourth person is partially visible on the right. The scene is brightly lit, suggesting daytime.

Thank you for joining us

T: 01480 431993

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