

...Collect and Monitor Workforce Equality Data

All schools and academies must comply with the Public Sector Equality Duty (PSED) introduced by the Equality Act 2010. This means that schools must have due regard to the need to:

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

Protected characteristics are set out in Section 4 of the Equality Act 2010 and are:

- ✓ age;
- ✓ disability;
- ✓ gender reassignment;
- ✓ marriage and civil partnership;
- ✓ pregnancy (including maternity leave);
- ✓ race;
- ✓ religion or belief;
- ✓ gender;
- ✓ sexual orientation.

The PSED covers the management of pay and appraisal at school and academy level. The Department for Education (DfE) advises schools and academies that they should consider the preparation of, and the publication of, equality objectives and also consider publishing information, to demonstrate compliance with the PSED. This advice has most recently been given in a keynote Government advice document to which the Secretary of State for Education has drawn attention, *Equalities considerations as part of the appraisal and pay determination process: Departmental advice for local authorities, maintained schools, academies and free schools* (2014).

Monitoring the equality impact of pay and appraisal

The DfE also sets out in this advice that, *'it is good practice for schools to record what steps they undertake to avoid discrimination before and at the time that they develop policy and take decisions, and monitor the effectiveness of those steps in eliminating discrimination - they should also keep these under review on a continuing basis. Equality monitoring is the most effective and efficient method of identifying potential inequality in workplace policies and procedures.'*

The DfE goes on to state: *'Once potential inequalities have been identified, schools should take steps to amend arrangements in order to avoid discrimination. On-going equality analysis can assist schools in identifying any potential inequality and would help demonstrate that the school is attempting to eliminate discrimination and advance equality etc.'*

In the same advice, the DfE recommends: *'It is also important that considerations about equality issues, either at a system level or for individual teachers, take account of the cumulative effect of decisions over time. For example, individual pay progression decisions in a particular year may in themselves be taken in accordance with the school's pay policy. However, when all of the pay decisions in a school are looked at over a number of years, it may become apparent, for example, that a greater proportion of men received higher rates of pay progression or faster pay progression than women. This kind of pattern may be an indication of some form of inequality in the decision-making process and should come to light if the PSED is properly discharged.'*



Effective monitoring of workforce equality data

It is vital that schools collect data on the schools workforce effectively if they are to carry out their PSED. The NASUWT therefore advises schools to adopt the following key principles when carrying out equalities monitoring:

- Schools should collect data on each of the protected characteristics in the Equality Act 2010.

This is necessary to enable schools to fulfil their PSED. For example, this would include data on staff absence, staff turnover and the use of disciplinary procedures, including capability and attendance management procedures, in addition to data on pay and appraisal. It is particularly important that the use of grievance procedures is subject to equalities monitoring:

- Schools should adopt a policy which clearly states that data on protected characteristics is confidential and should not be used for purposes other than equality monitoring to ensure that the school fulfils its PSED.

The equalities monitoring policy must ensure that data collected is treated as highly confidential, appropriately restricted and complies in every respect with the Data Protection Act (DPA). The equalities monitoring process should be regularly reviewed to ensure that appropriate confidentiality is maintained.

Monitoring for sexual orientation and gender identity is particularly sensitive and the NASUWT advises that, as with all data, data on sexual orientation and gender identity should only be collected provided that this is carried out sensitively and confidentially. This includes the storage of the information which is collected:

- In circumstances where employees decide not to provide equalities data, this is not ascribed by the employer.

Some employees can be very suspicious of employer motives in collecting equalities data and may choose not to provide it to the employer. If this is the case, then schools should work with the NASUWT and other trade union representatives on measures which will foster trust in the process, but employers should not assign data to teachers and other members of the schools workforce:

- Schools should collect a range of data to monitor, as appropriate, that they do not discriminate against employees on grounds other than the protected characteristics in the Equality Act 2010.

It is unlawful to treat employees less favourably for the following reasons:

- a union-related reason (including where a member or members are campaigning for union recognition);
- participating in protected (i.e. official) industrial action;
- a health and safety reason;
- asserting a statutory right (for example, the right to request flexible working);
- taking or requesting leave for family reasons;
- asserting a right under the Working Time Regulations;
- asserting rights under the Tax Credits Act 2002;
- because of the teacher's part-time status;
- because the teacher is on a fixed-term or temporary contract;
- because the teacher is absent on jury service.



The school's data collection and equalities monitoring processes must ensure that this occurs:

- When designing an equalities monitoring process, schools should take into account specific circumstances of the school and the school's workforce.

A range of template models exist for collecting data on race and faith or belief. Collection of data on race using the following approach is often appropriate:

White or White British

English

Irish

Scottish

Welsh

Other white background: Please specify

Black or Black British

African

Caribbean

Other Black background: Please specify

Asian or Asian British

Bangladeshi

Indian

Pakistani

Other Asian background: Please specify

Mixed Heritage

White & Asian

White & Black African

White & Black Caribbean

Other mixed background: Please specify

Other Ethnic Group

Chinese

Other ethnic group: Please specify

However, the diversity profile of a particular school's workforce may mean that it is appropriate to collect data on additional ethnic groups.

In a similar fashion, collecting data on faith and belief using the following approach is often appropriate:

Baha'i

Hindu

Muslim

Zoroastrian

Buddhist

Jain



- Rastafarian
- Other religion or belief (please specify)
- Christian
- Jewish
- Sikh
- None

However, it may be appropriate to vary this template under certain circumstances – for example, a Catholic school should collect data on teachers who are not Roman Catholics in order to ensure that discrimination towards them does not occur (under these circumstances, the school would subdivide the ‘Christian’ category, in addition to including the faith categories above, in its monitoring processes):

- Schools should monitor the equalities impact of all policies and working practices.

Schools should monitor the equalities impact of all policies and working practices, not just one aspect of those policies.

For example, in respect of pay and appraisal, the DfE recommends the following approach in *Equalities considerations as part of the appraisal and pay determination process*:

‘Whenever pay policies are amended or pay decisions made for individuals, decision-makers and appraisers in schools should assess whether there are implications for people with particular protected characteristics. In particular, equality should be considered in relation to:

- **Objective setting** – *the nature and weighting of performance objectives agreed during a teacher’s appraisal should be non-discriminatory and should provide teachers with an equal opportunity to access pay progression. This will have implications for the training of appraisers and for the moderation of the appraisal arrangements at the school;*
- **Pay progression criteria** – *the nature and degree of challenge of pay progression criteria should be considered to avoid indirect discrimination.*
- **Recommendations and decisions on teachers’ pay progression** – *the outcomes should be recorded and reported, taking account of the profile/characteristics of those who are granted pay progression and those who do not receive pay progression;*
- **The nature and scale of pay progression of teachers at the school** – *in particular, where some teachers receive accelerated pay progression (e.g. double-jumping), the governing body should look at the profile/characteristics of the teachers concerned as against other teachers not in receipt of accelerated progression;*
- **Appeals** – *both in terms of teachers accessing the appeals process and the outcome of pay appeals at the school.’*

Reviewing equalities data

After it is collected, equalities data should be reviewed in partnership with the NASUWT and other unions and an action plan should be developed to address any breaches of the PSED which are revealed. This may include changes to policies and working practices, including over pay and appraisal, together with other HR policies and procedures.

This should be an ongoing process, but in respect of pay and appraisal should take place at least annually. Annual gender pay audits should be carried out in companies with 250 staff or more, including (where applicable) multi-academy trusts and local authorities for schools where the local authority is the employer.

England and Wales 1509032