

PROFORMA FOR A FULL EQUALITY IMPACT ASSESSMENT

Title

Teacher Performance

Description of the policy

The aim of this policy change is to help schools in England to raise the standard of teaching through tackling teacher underperformance, and ultimately to raise standards of educational achievement and close the achievement gap between rich and poor.

The Government intends to tackle the issue of underperforming teachers by:

- streamlining arrangements for teacher appraisal and capability procedures;
- stripping away duplication and unnecessary bureaucracy; and
- giving more freedom to head teachers to put in place local arrangements for teacher appraisal and capability procedures.

This equality impact assessment looks at the available evidence in order to determine whether these changes will have a greater impact on any particular groups of pupils or teachers.

The evidence base

1. Sutton Trust report, **Improving the impact of teachers on pupil achievement in the UK – interim findings**, September 2011
2. Barber and Mourshed, 2007; Sanders and Rivers, 1996; Slater et al., 2009
3. Sammons, P. et al, **EPPE: Summary report: variations in Teacher and Pupil Behaviours in Year 5 classes**, 2006; Cabinet Office, **Getting on, getting ahead. A discussion paper: analysing the trends and drivers of social mobility**, 2008; Higher Education Statistics Agency and School Census data.
4. Ofsted Annual Report 2010-11.
5. OECD, **Making the teaching profession more attractive: OECD insights. Informal meeting for Ministers of Education**, 2009; Mckinsey, **How the worlds best-performing school systems come out on top**, 2007; NFER, **New professionalism: making the links between professional standards, induction, performance management and continuing professional development: an**

evaluation, 2011

6. DfE, **November 2010 figures on school workforce in England**, published in April 2011
7. NFER, 2011 (as above).
8. GTCE, **Survey of Teachers**, 2010
9. NatCen, **Factors contributing to the referral and non-referral of incompetence cases to the GTC**, January 2010
10. NASUWT, **Teacher capability / competence – A review of the evidence**
11. NASUWT, **Age Discrimination: No Experience Necessary?**, 2010
12. N/A.
13. Informal discussion and consultation with: professional associations and unions representing head teachers and teachers; the National Employers Organisation for School Teachers; members of the DfE's Secondary and Primary Head Teachers' Reference Groups; members of the Bureaucracy Reference Group.
14. Responses to the formal consultation on the proposals which ran from 24 May to 16 August 2011.

What the evidence shows – key facts

1. According to the **Sutton Trust**: "The difference between a very effective teacher and a poorly performing teacher is very large. For example, during 1 year with a very effective Maths and English teacher, pupils gain 40% more in their learning than they would with a poorly performing teacher.

"The effects of high quality teaching are especially significant for pupils from disadvantaged backgrounds. Over a school year, these pupils gain 1.5 years' worth of learning with very effective teachers, compared with 0.5 years with a poorly performing teacher. In other words, for poor pupils, the difference between a good teacher and a bad one is a whole year's learning. Bringing the lowest-performing 10% of teachers in the UK up to the average would hugely boost attainment."

2. In the 1990s, a **series of in-depth studies conducted by American academics** showed that the quality of an individual teacher is the single most important determinant in the school system of a child's educational progress. Those pupils taught by the most effective teachers make three times as much progress as those taught by the least effective.

Analysis of data from England has shown that a pupil taking eight GCSEs taught by 'good' teachers will score 3.4 more GCSE points than the same pupil in the same school taught by eight 'poor' teachers.

3. There is evidence to suggest that the quality of teaching is poorer in schools with higher levels of pupils eligible for free school meals (FSM). **Cabinet Office data** suggests that schools with more than 20 per cent of their pupils eligible for FSM are more likely to be rated worse in their teaching.

Recent data showed that, of the 80,000 students in one year eligible for free school meals (FSM), just 40 went on to Oxford or Cambridge universities - fewer than some private schools manage to send by themselves.

4. **Ofsted's Annual Report 2010-11** states that the quality of teaching in maintained schools inspected between 1 September 2010 and 31 August 2011 was as follows:

- Outstanding – 6%
- Good – 54%
- Satisfactory – 38%
- Inadequate – 3%

The report comments that 'the quality of teaching in our schools is still too variable: too much is satisfactory and too little outstanding teaching was seen in the schools inspected this year. Satisfactory teaching does not deliver good enough progress for pupils in the most challenging circumstances.'

5. Ongoing, regular performance management is a feature of the most successful education systems. The **OECD** has found that appraisal and feedback have a strong positive impact on teachers, with teachers reporting increases in their job satisfaction, changes to their teaching practices and significant increases in their development as teachers. **McKinsey** found that the effective use of classroom formative assessment of teachers' performance in the classroom, with a short cycle of feedback into training, approximately doubles the rate of pupil progress. Findings from a **NFER** study suggest that head teachers felt performance management was a positive factor in: providing teachers with access to relevant continuous professional development (CPD) opportunities; helping to improve teacher and learning practices; helping to improve pupils' outcomes / progress; and helping to contribute to whole school improvement.

6. Figures from the **Department's School Workforce Census for England** in November 2010 showed that:

- 73.0% of regular FTE teachers in publicly funded schools were female (64.9% of head teachers).
- 24.1% of FTE teachers in publicly funded schools were aged 50 and over (55.0% of head teachers).
- 6.3% of teachers in publicly funded schools were from minority ethnic groups (2.2% of head teachers).

The Department does not collate information on performance management and capability procedures centrally. We therefore do not know whether or not teachers of one particular gender, age, religion, belief, sexual orientation, and ethnic or disability group are more likely to be subject to capability procedures.

7. The **New Professionalism research** asked teachers a number of questions about performance management. The evidence does not differentiate between teachers of different genders, ethnic groups, disability

group or age. However, some of the evidence is differentiated by length of service which could be used as a rough proxy for age. It indicates, for example, that those teachers with longer service are more likely than others to think that the amount of lesson observation outlined in their performance management planning and review statements was proportionate to their needs; however, those with shorter service (2nd year teachers) were slightly more likely than others to think their experience of performance management had contributed to helping them improve their teaching and learning practices.

8. The **GTCE's 2010 survey of teachers** indicates that different groups of teachers had different views on the extent to which the performance management process supported them to improve their teaching. In general: teachers were more likely to have a positive view of performance management if they:

- Taught part-time
- Were from a black and minority ethnic (BME) background
- Taught in a school with a high proportion of pupils with special educational needs (SEN)
- Were a senior teacher (including assistant head, deputy head and head teacher)
- Had been a teacher for less than five years or more than 30 years
- Had experienced a higher number of CPD activities within the last 12 months

And were more likely to have a negative view if they:

- Were male
- Defined themselves as disabled in line with the Disability Discrimination Act
- Preferred not to say what their ethnicity was
- Taught in a secondary school
- Taught in a school that experiences higher 'economic challenge' (a high proportion of pupils eligible for FSM).

9. Evidence published in January 2010 (the **NatCen research**) suggested that the current arrangements for tackling teacher incompetence did not work well. It found that a number of factors delayed or prevented the use of capability procedures. These included a perception that the capability procedures duplicated the support provided through the performance management system. The report also found that "the complexity and burden of capability procedures may act as a barrier to escalation". The report did not differentiate between different groups.

10. A **NASUWT** publication, **Teacher Capability/Competence: A Review of the Evidence**, states that between 2008 and 2010, the NASUWT provided professional casework support to 773 teachers in the UK in relation to

capability and competence issues and that analysis of their casework database suggested the following:

- 46% of the cases involved teachers aged over 50 years (such teachers comprise around 32% of the UK teacher workforce and 19% of the NASUWT membership);
- 42% of the cases involved male teachers (men comprise around 34% of the UK teacher workforce and 28% of the NASUWT membership);
- 6.5% of the cases involved black and minority ethnic (BME) teachers (broadly in line with the estimated representation of BME teachers in the UK teacher workforce); and
- 9% of the cases involved disabled teachers (the estimated representation of disabled teachers in the UK teacher workforce is 0.3%).

11. The **NASUWT** carried out a large study on the experiences of older teachers (**Age Discrimination: No Experience Necessary?**). It states that they conducted an online survey of teachers and head teachers, over ten days in March 2010, attracting 3,525 responses. Of these, 73% were from respondents aged over 50. Ten per cent of all responses were from teachers aged over 60, while 13% were from teachers aged 35 to 50. The study found that:

- Ten per cent of respondents said that they had been informed by senior managers that their age would be a barrier to their future professional progression.
- Thirteen per cent said that they experienced more lesson observation, monitoring and scrutiny of their work than younger colleagues.
- On appointment of a new head teacher, 21% indicated that they had experienced denigration or marginalisation of their professional capabilities on the specific grounds of their status as an older teacher.
- 36% reported that they had been made to feel that younger colleagues were more capable teachers.
- 29% stated that they had been subject to negative comments about their professional ability or competence on the grounds of their age.

12. The **NASUWT** has expressed concern that, because BME teachers are over-represented in schools with higher than average proportions of BME pupils and pupils eligible for FSM, and those schools are less likely to meet floor targets, BME teachers will be more likely to be under intensive scrutiny than teachers in other schools.

The proposed arrangements for appraisal and capability procedures apply to all teachers who are covered by the relevant legislation in the same way – any greater scrutiny of particular teachers in particular schools would arise as a consequence of action taken to improve the performance of the schools concerned rather than as a consequence of these changes.

13. **Informal consultation** has identified that, although current systems have not prevented head teachers from tackling underperformance where they

were determined to do so, some aspects of the systems were a disincentive to action. There is no evidence to date to suggest that where schools have had greater freedoms in relation to the arrangements for performance management (specifically in the context of academies) that this has had a negative impact.

Informal consultation highlighted concerns about the complexities of systems and the time and effort they involved, and the overlap between performance management and the informal stage of the capability procedure. It also identified concerns about the links between tackling under-performance and mental health concerns, in particular stress (for both parties). We sent a copy of our consultation documents to MIND, but they did not respond.

14. A small number of the responses to the **public consultation** mentioned concerns about equalities issues. NASUWT's concerns have been included above. Other comments indicated that some respondents were not clear about their obligations under the Equalities Act, in particular in relation to disability and/or staff sickness.

Summary

The evidence suggests that improving the quality of teaching contributes to improving standards of educational achievement across the board and that poor quality teaching can have a negative impact on pupil outcomes. It suggests that improving the quality of teaching is likely to have a more marked effect in schools with higher levels of pupils eligible for FSM, thus contributing to closing the achievement gap between rich and poor. It also suggests that performance management can play a positive role in improving teacher quality and that there is some evidence that suggests in some cases the current arrangements have been found to be onerous and unclear.

The evidence does not conclusively identify any particular groups of teachers as having a particularly positive, or negative, experience or perception of performance management/capability procedures. Furthermore, there is no evidence to suggest that the proposals being introduced here would make it any more likely that a particular group would be disadvantaged or discriminated against.

Challenges and opportunities

Under the Government's proposals, individual head teachers and governing bodies will have greater freedom to design their own appraisal policies, tailoring them to meet their particular circumstances. The new model policy will be optional, but schools will need to ensure that they handle any capability issues in a manner that is consistent with employment law and the ACAS Code of Practice on Disciplinary and Grievance Procedures.

In designing and applying their policy or policies, schools must also continue to comply with relevant discrimination and equality legislation, which from

October 2010 includes the Equality Act 2010 (which provides consolidated discrimination law and supersedes the Race Relations Act, the Disability Discrimination Act, and the Sex Discrimination Act). The new optional model policy makes clear that a general principle underlying the policy is the need to ensure consistency of treatment and fairness, and to abide by all relevant equality legislation.

The obligation to comply with relevant legislation and the need to be consistent with the ACAS Code are not new. There is no reason to suspect that school leaders will be less likely to meet those obligations just because they are being given more freedom in other respects.

Equality impact assessment

Adverse impact on pupils is unlikely but positive impact could occur if the proposals have the intended effect of improving the quality of teaching. Adverse impact on teachers is unlikely but positive impact is also unlikely.

Next steps

The new appraisal regulations will come into force in September 2012. At the same time, the model policy on appraisal and capability arrangements will supersede the existing performance management and capability model policies.

We will be seeking to gather information about how the new appraisal and capability arrangements are being implemented by schools and local authorities in the approach to September 2012 and in the first year of operation (2012/13). We will also develop longer term evaluation plans, and will be looking at how we can assess impact on particular groups of teachers.

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