



November 2009

News

Capital expenditure programmes

The Government has rejected a plea from MPs to reimburse colleges that spent a total of around £200 million on preparing plans for building work which never received funding under the government's capital programme. However, Barclays have teamed up with the European Investment Bank to provide £200 million finance to help 24 colleges restart stalled capital projects.

Veto on skills strategies

The House of Lords is currently debating the Government's new Apprenticeships, Skills, Children and Learning Bill. In particular the Bill allows regional development agencies such as SWRDA, to take responsibility for determining skills strategies. However, further inspection revealed that local authorities would have a veto over the RDA's plans thus forcing the RDA to work in partnership with the local authorities.

Rise in false allegations against teachers

A recent study from the Association of Teachers and Lecturers claims that about a quarter of teachers have been victims of false allegations made by pupils. The rise in false allegations makes it even more important for schools to ensure compliance with disciplinary procedure to ensure that while investigation into allegations is carried out, teachers are still supported whether suspended or not, through the process.

In a recent ongoing case, an award winning head teacher has been placed on suspension for six months and counting without explanation as to the allegations against him. The National Association of Headteachers is representing him against the school in a claim for breach of the headteacher's terms and conditions of employment.

Watch this space – waiting for the Supreme Court's decision in relation to the entry requirements to Jewish schools

The Jewish Free School lost its case in the Court of Appeal in June but appealed and its case has just

been heard in the Supreme Court. While the decision is not expected until mid November, the case has attracted a large amount of publicity and the verdict could have major implications for the future legality of faith schools' admissions policies.

Child protection: The new requirements

There has been a great deal written about the rights and wrongs of the Government's Vetting and Barring Scheme. However, in our experience, what educational establishments really want to know is what the implementation of this law means for them.

The essentials

When the Vetting and Barring Scheme comes fully into force (see below), every person who works or volunteers with children or vulnerable adults doing a 'Regulated Activity' must be registered with the Independent Safeguarding Authority (ISA).

'Regulated Activity' means any activity that involves contact with children or vulnerable adults frequently (once a month or more), intensively (takes place on three or more days in a 30-day period) and/or overnight or which allows contact with children or vulnerable adults in a specified place (such as a school) frequently or intensively.

It will be a criminal offence for a person who undertakes a regulated activity to work or volunteer in this capacity without being registered and it will be a criminal offence for educational establishments to allow a person to work with children or vulnerable adults without doing the proper checks.

The first phase: 12 October 2009

The first phase of the implementation of the Vetting and Barring Scheme came into force on 12 October 2009 and means that a person who wants to work or volunteer with children or vulnerable adults will need to complete an enhanced CRB form, rather than the usual standard check. Until 20 July 2010, applicants should complete the existing form, although this will be phased out in 2010.

The second phase: 26 July 2010

From 26 July 2010, all new applicants who want to work or volunteer with children or vulnerable adults may register with the Independent Safeguarding Authority (ISA), although there is no legal obligation for them to do so.

As part of the registration process, any relevant information from the police or from other sources, such as previous employers or professional bodies, will be passed to the ISA for consideration. The ISA will then decide whether the applicant should be placed on a Barred List. If there is no information the CRB will inform the applicant that they are ISA-registered. All ISA-registered individuals are then subject to continuous monitoring. This means that the ISA decision not to bar them could be reviewed in the light of new police or referral information.

Educational establishments will be able to check whether a person is ISA-registered by checking the appropriate box as part of an enhanced CRB check or by checking online for free. They will also be able to 'Register an Interest' in an individual's ISA-Registration status and receive updates if this status changes.

The third phase: November 2010

From November 2010, it will be a criminal offence for anyone to employ or allow a person to volunteer with children or vulnerable adults without first confirming their ISA registration. Educational establishments will also have a legal duty to refer appropriate information to the ISA.

The fourth phase: 2010-2015

Educational establishments will be given up to 5 years to ensure that all current employees and volunteers are ISA-registered.

More information about the scheme can be found on the ISA website at www.isa-gov.org.uk and some useful FAQ's can be found [here](#).

If you are in doubt about your responsibilities, then please contact your usual Foot Anstey representative who will be able to assist you.

Case Reports

Unfair dismissal

In a recent case, a headteacher of a Church of England primary school has won compensation of over £70,000. After a dip in the school's key stage 2 results the primary school's Board of Governors required the headteacher not to return to the school having planned to return after a short period of unrelated sick leave. The Tribunal found that the Governors had used a flawed disciplinary process during which the Governors did not objectively assess the evidence in front of them. The dismissal was therefore substantially unfair and gave the headteacher a right to unfair dismissal. The case highlights the importance of having, and following, ACAS compliant disciplinary and grievance policies.

Personal injury – Asbestos claims from teachers set to rise

A widower has received a payout of £180,000 for the death of his wife who had contracted mesothelioma and subsequently died. This was the first case of a payout to a teacher and given that a recent survey by Lim Dem MP Paul Rowen established that 90% of schools contain asbestos, it is expected that the payout will give rise to a number of claims.

Q & A

If you have a topic or question you would like answered and which can be covered in the bulletin, please forward it to us. The question will be edited so the identity of the questioner will not be given and anonymity assured.

For further information or advice on any education issue please contact Julia Green on:

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