

Performance Management

A practical guide

Teachers

Line Managers

NASUWT

National Association of Schoolmasters Union of Women Teachers

the largest union representing teachers and headteachers throughout the UK

Important Information

This practical guide is based on the Education (School Teacher Performance Management) (England) Regulations 2006.

It contains all the essential information teachers need to know about performance management.

It includes:

- a copy of the 2006 Regulations;
- a model planning and review statement;
- a series of 'How to Sheets';
- information on local authority powers of intervention; and
- contact details for the NASUWT.

The following additional documents also provide helpful information and have been supplied to all NASUWT Representatives together with a copy of the 2006 Regulations:

- the Rewards and Incentives Group (RIG) Model Performance Management Policy and the NASUWT commentary;
- the Rewards and Incentives Group Performance Management Guidance;
- the Training and Development Agency (TDA) revised professional standards for teachers.

The above documents are also on the NASUWT website in downloadable form. Copies are also available free from the NASUWT. Call 0121 453 6150 or e-mail despatch@mail.nasuwt.org.uk.

The NASUWT has produced separate practical guides for unattached teachers (including supply teachers) and headteachers.

These practical guides apply only to teachers and headteachers in England.

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Background

The context for performance management is the primary legislation in the Education Act 2002 and associated regulations for performance management (or appraisal as it was originally termed). Since 2002, all schools and local authorities for centrally attached staff, have been required to review annually the performance of teachers and headteachers.

In 2006, the then DfES, now the Department for Children, Schools and Families (DCSF), working with its social partners in the national Rewards and Incentives Group¹ of which the NASUWT is a member, agreed a number of changes to the performance management regulations and guidance. **These revised arrangements take effect from 1 September 2007.**

APPLICATION OF THE REVISED REGULATIONS

The Education (School Teacher Performance Management) (England) Regulations 2006 apply to:

- any qualified teacher, headteacher and unqualified teacher, working full or part time, employed by a local authority or governing body to work for one term or more in early years, primary, special, secondary, maintained community, voluntary, foundation or trust schools;
- teachers and headteachers employed centrally by the local authority under the terms of the School Teachers' Pay and Conditions Document (STPCD), including those in PRUs, nurseries, local authority support services, peripatetic teachers, home tutors and others employed by the local authority but not allocated to an individual school.²

The revised Regulations do not apply to:

- any teacher who is undergoing or has not completed satisfactorily their induction year;
- any teacher or headteacher while they are the subject of a capability procedure;
- teachers and headteachers employed in academies;
- anyone employed at the school not under the STPCD.

A copy of the 2006 Regulations is reproduced in full in Annex 1 of this guide.

THE RATIONALE FOR CHANGE

The NASUWT, working with the Rewards and Incentives Group, is committed to developing a system where those who manage teachers and headteachers³ engage in a professional dialogue with them, respect them as professionals and make decisions about their work and contribution in an open and fair manner.

Performance management must be consistent with the principles and practices of equal opportunities, legislative requirements and all statutory duties which apply to schools and local authorities.

Performance management arrangements should be managed effectively, transparently and fairly and be applied consistently.

¹ The Rewards and Incentives Group consists of the Department for Children, Schools and Families, the Local Government Employers, the NASUWT, ATL, ASCL, NAHT and PAT.

² The NASUWT has produced separate guidance for unattached teachers (including supply teachers).

³ The NASUWT has produced separate guidance for headteachers.

The NASUWT has worked to secure a system for assessing a teacher's and headteacher's overall performance, removing the confusion and unfairness brought about in many cases by them being subjected to a number of different processes which were often unclear, unfair and inappropriate.

The revised performance management arrangements will now be the only process for assessing the overall performance of teachers and headteachers, in the context of the individual's job description and the provisions of the STPCD, and for providing evidence for pay progression for eligible teachers. The revised arrangements will also be the vehicle for making plans for the individual's future development in the context of the school improvement plan.

The revised arrangements will, for the first time, secure formal consideration of the training and development needs of teachers and headteachers.

Professional standards for teachers will provide a backdrop to the discussions about performance and future development. The standards define the professional attributes, knowledge, understanding and skills for each career stage. Professional standards for headteachers and leadership group members are being developed.

KEY FEATURES OF PERFORMANCE MANAGEMENT

Following the 2006 revisions to the regulations relating to performance management, far more of the process is covered by regulation rather than guidance. Governing bodies and local authorities are required by statute to follow these. This provides greater protection for the individual and increased clarity and transparency in the process.

The planning meeting at the beginning of the annual cycle

The planning meeting is now the most critical part of the process.

All factors against which the teacher's and headteacher's performance will be reviewed at the end of the cycle must be made clear at the outset in the planning meeting and recorded in the planning and review statement.

No other information can be introduced at the review meeting at the end of the cycle. The only exception is where there has been a formal process of amendment during the cycle to the planning statement. All such amendments are governed by the regulations.

Amendments during the cycle should be the exception rather than the norm.

Classroom observation

There is now a limit of three hours of classroom observation per individual per cycle. There is no requirement to use any or all of the three hours. The amount and focus of the observation should be discussed at the planning meeting at the start of the cycle. The amount should be proportionate to the individual's need.

Written feedback on any observation must be provided within five days of the observation.

Some schools may claim that OFSTED gradings should be used to evaluate lessons. The school self-evaluation form (SEF) is cited as the reason. This is not correct. Firstly, the SEF is not mandatory and secondly OFSTED does not require individual lessons to be graded to complete the SEF. Using OFSTED gradings encourages schools to view lesson observation simply as a means of checking up on the quality of teachers' work rather than as a way in which professional dialogue about practice can be facilitated. This is particularly problematic in the context of the direct link between pay progression and performance as it could lead in some schools to a simplistic, mechanistic approach to pay progression, in

which only those who achieved a particular grading would progress, thus ignoring the holistic approach to performance which is a fundamental principle of the revised regulations.

Lesson observation recorded in a way consistent with the need to ensure that such evidence supports meaningful professional dialogue and exchange will still provide schools with sufficient evidence to make judgements about the quality of teaching and learning across the whole school to be recorded on the SEF. The SEF is meant to act simply as a summary of a school's self-evaluation process.

It is for these reasons the NASUWT has opposed the use of OFSTED gradings and has strongly advised NASUWT Representatives that their use should not be agreed at school level as a result of the introduction of the revised regulations.

The information collected from classroom observation should, as far as possible, be multi-purpose, feeding into the school improvement and school self-evaluation process and therefore removing the need for additional observation for monitoring purposes.

Classroom observation by OFSTED inspectors during an inspection is not included in the three hours.

Observation as a result of local authorities exercising their formal statutory powers of intervention in schools is not included in the three hours (see Annex 4 for further details).

Performance management and the link to pay

There has been no change to the pay progression criteria or process as a result of the 2006 Regulations. However, performance management is now the **only source of evidence to support pay progression** for eligible teachers.⁴

The 2006 Regulations come into effect from 1 September 2007. The review of the outcome of the 2006/07 cycle (the previous cycle) will take place under the 2002 Regulations. Planning for the 2007/08 cycle will take place under the 2006 Regulations. The review of that cycle and all subsequent cycles will take place under the 2006 Regulations.

The first review of performance under the 2006 Regulations will therefore take place in 2008.

Roles and responsibilities

The reviewer for all teachers will be the headteacher unless s/he chooses to delegate the role, in its entirety, to the teacher's line manager. Headteachers cannot opt, either for themselves or any member of the leadership group, to retain selected parts of the process, for example pay recommendations. **Anyone designated as a reviewer must carry out all aspects of performance management planning and review, including making any pay recommendations for eligible teachers.**

Process and timing

There is a clear timeline for the completion of the performance management process.

Planning and review statements for teachers must be completed by 31 October and for headteachers by 31 December each year.

⁴ Eligible teachers are those on the pay scales for post-threshold, leadership group and Advanced Skills Teachers.

Right of appeal

All teachers and headteachers have a statutory right of appeal about any entry in the planning and review statement. The school's appeal process should be clear and will usually be contained in the school's pay policy.

Performance management policy

All schools are required by the 2006 Regulations to have a performance management policy containing a classroom observation protocol. Governing bodies are required by the regulations to seek to agree the policy with trade unions, having regard to the outcome of consultation with staff.

OTHER IMPORTANT ISSUES

Performance management is not voluntary. It applies to all teachers and headteachers.

There is, therefore, certain basic advice on a number of important issues which is relevant to everyone involved in the performance management process.

Workload

Performance management should not operate in such a way that it adds to the workload of those involved in any part of the process.

All performance management activities should be contained within directed time for teachers.

Planning, preparation and assessment (PPA) time cannot be used for any aspect of performance management. Lunch breaks should not be used.

Performance management meetings should take place at a time when all parties are able to give their best.

The NASUWT recommends that the most effective arrangement is likely to be the allocation by the school of a teacher day⁵ to conduct the planning and review meetings for performance management. There are five of these available in each academic year. The timing of these days is within the gift of the school. The advantage of using these days is that all those involved in performance management can be readily available without the need to disrupt teaching timetables.

However, if this option is not used, then time within pupil sessions is preferable with appropriate release from teaching commitments for the reviewer and reviewee.

If directed time outside pupil sessions is used for the planning and review meeting, the NASUWT would not expect the performance management meeting to be in addition to other meetings during the week.

In the case of headteachers, others paid on the leadership spine and Advanced Skills Teachers (ASTs), directed time is not applicable since the STPCD provides no such limit for these groups of teachers. In these circumstances, performance management activities should still be conducted on the basis of the NASUWT recommendations above as the workload and work/life balance of these teachers must be considered in the same way as for others.

Self-review/evaluation

Attempts may be made in some schools to introduce formal self-review into the performance management process as opposed to the informal personal reflection teachers may choose to use to prepare for the planning and review meeting.

⁵ Teacher day may also be referred to as INSET day, Baker day, non-pupil day.

Self-review may appear in a number of guises such as self-evaluation or self-appraisal. Whatever its title, the NASUWT does not support such a process and advises members not to agree to participate. Self-evaluation is not required by the Regulations and the Rewards and Incentives Group guidance states, *'There is no requirement for reviewees to provide written input on their reflections to inform the meeting and schools should not impose one.'*

Self-review/evaluation is unnecessary and invariably creates additional work and bureaucracy.

It is not in teachers' best interests to participate in such schemes as experience shows that such systems encourage teachers to be overly self-critical. In the context of performance management this could prejudice career and future pay progression.

It is, however, in teachers' and headteachers' interests to ensure they prepare properly and fully for their planning and review meeting. How they do this is a matter of personal choice.

Job descriptions

Job descriptions are used as a focus for setting the objectives required as part of the performance management process. All teachers should have a job description. However, there is a need to guard against the revisions to the 2006 Regulations being used to provoke a wholesale review of job descriptions with a view to adding items to them. The Regulations do not require this.

It is important to remember that:

- **a job description is not a contract of employment.** It is a description of what is expected of a person appointed to a particular post in the context of the duties set out in the STPCD;
- all teachers are governed by the duties set out in the STPCD. The NASUWT, therefore, favours generic job descriptions which simply refer to these. However, the STPCD does not distinguish between teachers, other than those on the leadership spine, ASTs, and Excellent Teachers. Consequently, all the duties listed are not appropriate for every teacher. **There should be no expectation that all of the duties set out in the STPCD are included in an individual teacher's job description;**
- the job description should always be in the context of and accurately reflect the appropriate duties of the teacher as set out in the STPCD. The job description should not and cannot be used to vary or change the STPCD duties or contractual entitlements. **Job descriptions should not contain references to voluntary or unremunerated activities;**
- job descriptions or revisions to them, should be drafted by the school management and the content discussed with the teacher concerned with a view to agreement being reached. Teachers should not be drawn into writing their own job description or signifying acceptance until they have seen a written draft version and had time to consider it;
- when a member disagrees with the job description, s/he should seek to resolve the matter at school level. If this proves impossible, further assistance should be sought from the NASUWT.

The professional standards

The NASUWT has provided all its NASUWT Representatives in schools with a copy of the standards for teachers.

The standards are statements of teachers' professional attributes, knowledge, understanding and skills. They provide clarity of expectations at each career stage.

Some of the standards are pay standards. If a teacher wishes to cross the pay threshold or become an Excellent Teacher or Advanced Skills Teacher they apply to be assessed against the relevant pay standards.

The other standards are the professional characteristics a teacher should maintain at each career stage.

The standards will form a backdrop for professional dialogue in the performance management process.

The standards are not:

- a job description;
- a contract of employment;
- a replacement to the professional duties and responsibilities of teachers as set out in the STPCD; or
- a performance management checklist.

The standards cannot be used to:

- prevent teachers taking lawful industrial action;
- undermine teachers' legal rights or contractual entitlements.

There should be absolutely no need for schools to change job descriptions and working practices as a result of the introduction of the standards.

Used properly and appropriately, the standards should assist teachers in their career progression and professional development.

Managing weak performance

The performance management process may identify serious weaknesses in a teacher's or headteacher's performance. **However, performance management is not a capability procedure. If serious weaknesses are revealed performance management should cease and the agreed capability procedure adopted in the school should be implemented.**

If the performance management process has identified serious weaknesses, at the initial stage of the capability procedure the teacher and their union representative should be provided with the evidence from the performance management process which has prompted its implementation. **A member facing capability procedures should seek advice from the NASUWT.**

Withholding annual increments on the mainscale

The revised performance management arrangements do not in any way change the long-established process of incremental progression on the mainscale.

A long-standing clause in the STPCD is a provision to withhold an increment on the mainscale for unsatisfactory performance. This is rarely if ever implemented. Performance management may provide evidence of unsatisfactory performance but this is not the justification for withholding an increment. Such a sanction should arise only in the context of an appropriate formal capability procedure and then only when the procedure provides for this. **Any proposal in this regard should be referred immediately to the NASUWT.**

Use and retention of planning and review statements

At the end of the annual performance management cycle a review of performance will take place and the outcome recorded in the planning and review statement.

Anyone who does have access must maintain the confidentiality of the statement.

Reviewees must be told who has been given access to their statement and for what purpose.

Statements should be retained by the headteacher in a secure place on the school premises.

Each statement should be kept for a minimum period of six years from the date on which the cycle to which it relates ends.

Regulation 20 governs the use of and access to these statements and should be read in full.

Threshold assessment

From 2007 onwards, performance management planning and review statements acquired pre-threshold should form the basis of the evidence used to assess whether a teacher meets the post-threshold standards and can therefore cross the pay threshold.

Equal opportunities

There is evidence that performance management schemes can produce discriminatory and unfair outcomes when conducted by persons who have had no training in respect of equal opportunities. Stereotyped expectations may produce a biased approach and outcomes which lead to discrimination against individuals on the grounds of their gender, race, faith, disability, age, sexuality or trade union membership.

All persons involved in the implementation of performance management have a responsibility to ensure that direct and indirect discrimination is avoided.

All schools should have an equal opportunities policy for staff and performance management should be conducted within the context of this.

Equal opportunities issues must be considered at every stage in the process, including the conduct of meetings, objective setting, identification of professional development needs, and monitoring and review of performance.

The Rewards and Incentives Group has produced a 'How to Sheet' on equality issues and performance management and this can be found in Annex 3 of this guide.

Performance management consultants

There are many external organisations and private consultants seeking to sell schools training and materials to support performance management. These are often very expensive and promote strategies which were never intended to be part of the process.

There is also the potential for these providers to try to justify the purchase of their services by making the process appear more onerous and complex than it is. The NASUWT does not believe that schools need their services and strongly urges that they are not used. The training and information provided by the Rewards and Incentives Group via the TDA or local authorities are the recommended sources of support, briefing and training.



The NASUWT will also provide briefings and support, based on materials developed by the Rewards and Incentives Group and the TDA. Contact should be made with the NASUWT Regional Centre to find out what is available in each region. Regional Centres are listed in Annex 5 of this guide.

Contacting the NASUWT

Concerns about the operation of the performance management process in a school should be referred in the first instance to the NASUWT Representative in the school who will be able to seek advice from the NASUWT Local Association Secretary, National Executive Member or Regional Centre.

Where there are concerns about how the performance management process is being applied to an individual, then the individual member may require specific advice and casework support.

Annex 5 contains the contact details of the NASUWT Regional Centres.

TEACHERS (Reviewees)

This section provides a step-by-step guide for teachers to support them through their own performance management. It must be read in conjunction with and in the context of Section 1 of this guide.

The Performance Management and Review Cycle

Performance management is an annual cycle of 'plan – do – review'.

Schools may begin their annual cycle at different times of the year. Most will begin in the Autumn term. A few begin in the Summer term, usually June or July. Whenever the cycle begins it cannot be longer than a year and planning and review statements must be completed for teachers by 31 October each year.

Appointment of the reviewer (Regulation 11)

Each teacher (reviewee) should be allocated a reviewer who will manage their performance management process.

The reviewer may be the headteacher or the headteacher may delegate the role, in its entirety, to the teacher's line manager, i.e. the person who directs, manages and has the post of responsibility for the area in which the reviewee mainly works. **The headteacher cannot retain some elements of the performance management process whilst delegating other parts of the reviewer's role to others.**

There is no provision in the regulations for teachers to choose their reviewer.

If, in exceptional circumstances and for professional reasons, the reviewee wishes to request a change of reviewer they may make a request to the headteacher to appoint an alternative reviewer of comparable or higher status in the staffing structure than the original reviewer. (Where the reviewee is the deputy headteacher and the headteacher is their reviewer, advice would need to be sought from the NASUWT if there were concerns.)

The request should be made in writing and the reason for making the request stated. Where the request is not accepted the reasons should be explained in writing and be appended to the planning and review statement, together with the reviewee's original request.

STAGE 1 – Planning

Planning for the performance management cycle is covered by Regulations 13, 14 and 15.

A meeting, scheduled as far in advance as possible, should take place between the reviewer and reviewee. The scheduled meeting should be confirmed at least five working days in advance. If in exceptional circumstances the scheduled meeting cannot take place, a new date should be scheduled with at least five working days' notice.

Planning for the next cycle should take place at the same meeting as the review of the previous cycle. The purpose of the meeting is to review processes against the performance criteria for the previous cycle and to plan for the next cycle. There is no need for the meeting to be excessively lengthy or detailed. An appropriate amount of time should be set aside. An hour should be sufficient in most cases. **Lunch breaks and PPA time must not be used for this purpose.**

Preparing for the meeting

The meeting should be a professional dialogue between the reviewer and reviewee. The reviewee must play an active part in the meeting, clearly and confidently expressing their opinion, making sure that they put forward their views about their performance and future development.

Reviewees are advised to adopt the following approach in all meetings and discussions which take place in the performance management process:

- be positive about yourself;
- be genuinely reflective but avoid self-criticism and self-deprecation;
- avoid reference to voluntary and non-contractual activities;
- give specific examples of things you have done well;
- use the performance management process to highlight any relevant factors in your working environment which may adversely impact on your ability to meet the performance criteria.

Reviewees should make sure that prior to the planning and review meeting, in preparation for the planning part of the meeting, they:

- consider, as a backdrop to the discussions, the professional standards which apply to their current career stage and the career stage to which they might wish to progress;
- familiarise themselves with the relevant criteria set out in the STPCD, if they are eligible for pay progression;
- identify what professional development and/or support they might need to help develop their practice. Support might include additional resources, a specialist piece of equipment or in-class support;
- consider their professional aspirations;
- have relevant documentation, including the school improvement plan and the school performance management policy.

Reviewees are advised to undertake careful personal reflection prior to the meeting. **There is no requirement for reviewees to prepare anything in writing or to submit it before or during the planning and review meeting.** Schools should not impose any requirement on reviewees, and reviewees are advised by the NASUWT not to volunteer to do so.

In the meeting

The starting point for planning for the next cycle is an assumption by the reviewer that the reviewee is meeting all the requirements of their job description, their relevant duties and the relevant professional standards.

There is no need, therefore, for every aspect of the reviewee's responsibilities to be considered in planning for the cycle. The plans should focus on key priorities and areas where specific action is required.

The plans should be realistic and manageable and enable the reviewee to achieve their contractual entitlement to a satisfactory work/life balance.

The discussions should cover the following areas:

- the reviewee's objectives (Regulation 13);
- arrangements for observing the reviewee's performance in the classroom (Regulations 13 and 17);
- other evidence (Regulation 13);
- performance criteria for the above (Regulation 13);

- support, training and development (Regulation 13);
- timescales (Regulation 13).

These are expanded below. Reviewees are advised to familiarise themselves with Regulations 13 and 17.

The reviewee's objectives

The NASUWT policy is for no more than three objectives. The school's performance management policy should set out its policy on objective setting.

There is no reason why the objectives should not include a whole school objective shared by every teacher, including the head, or a year, team or departmental objective shared with other colleagues. Again, the school's performance management policy should specify the position on this. The NASUWT would expect any shared objectives to be part of the overall number of objectives for an individual not in addition to them.

The reviewee should ensure that their objectives:

- are clear, concise, realistic, achievable and measurable;
- relate directly to their job description;
- focus on issues over which they have direct influence/control;
- do not include voluntary and/or extracurricular activities;
- take into account any issues in their working environment that may impact negatively on their ability to meet an objective, such as disruptive pupils, large class sizes, pupils with special needs statements in mainstream classes without adequate support, or inadequate resources;
- reflect whether they work part time or require reasonable adjustments to support a disability.

Reviewees should guard against agreeing complex objectives with multiple sub-sections. They should be mindful at all times of their workload and their capacity to meet the objectives and if their concerns in this regard are not genuinely addressed or considered they should not feel they simply should agree.

Arrangements for observing the reviewee's performance in the classroom

The school's performance management policy must contain a classroom observation protocol which sets out how, in accordance with the regulations, classroom observation will be conducted.

Classroom observation should not be undertaken for its own sake. There must be a clear rationale for any observation to be undertaken. If the outcome of the reviewee/reviewer discussion is that classroom observation is needed, there must be a specified focus for each observation and the amount identified within the three-hour limit. The three-hour limit is a maximum not a standard. **There is no need for any or all of the three hours to be used. It should be proportionate to need.**

The reviewee should be clear about who will be conducting the classroom observation. It may be the reviewer but it does not have to be. However, whoever does the observation must be a qualified teacher who should have had adequate preparation and have the appropriate skills to give written and oral feedback.

Other evidence

The planning statement must specify the other evidence which will be considered in the review at the end of the cycle.

Other evidence should not be information collected directly from pupils or parents. It should only be written feedback from those who have direct professional knowledge of the reviewee's work. It could also be particular types of data.

The other evidence may relate to other areas of work not related to classroom observation or objectives. It should not, however, refer to voluntary, non-contractual activities.

Performance criteria

The performance criteria must relate directly to the objectives, classroom observation and other evidence and **must set out clearly what success for the reviewee in each of these areas would look like at the end of the cycle**. The performance criteria should provide clarity for the reviewee about the basis on which the reviewer will assess overall performance based on progress towards the achievement of objectives, classroom observation and other evidence. Where the reviewee is eligible for pay progression at the end of the cycle, the performance criteria should take into account the relevant pay progression criteria in the STPCD.

Eligible teachers for pay progression are those on:

- the pay scale for post-threshold teachers;
- the pay spine for members of the leadership group;
- the pay spine for Advanced Skills Teachers.

Reviewees should guard against accepting performance criteria which are simply target percentage increases in pupil progress.

Support, training and development

A key part of the discussion in the planning for the next cycle must be the support, training and development the reviewee may need to meet the performance criteria, and how these needs will be met.

It may be that no specific support is considered necessary. However, where it is, support could be in a number of forms, e.g. in class assistance from support staff, specialist equipment or ICT.

Training and development may include going on a particular training course, but not necessarily. It is one possible option. Some of the most effective professional development is based on teachers working with other teachers with pupils in the classroom. Training and development could include, for example, coaching or mentoring from an experienced colleague, team teaching or observing demonstration lessons.

Reviewees should not agree or be required to undertake training and development in their own time or at weekends or during holidays to meet any of the objectives.

Reviewees should guard against performance management being used as a vehicle for pressing individual teachers to undertake the completion of 'projects' or tasks which are more appropriately remunerated responsibilities.

Timescales

The timescale in which each objective should be met should be realistic and clear. Most objectives are likely to be targeted for completion during the annual performance management cycle. If a timescale less than the annual cycle is proposed for one or more of the objectives, the reviewee should carefully assess whether this is realistic or achievable before agreeing to it. There should be no expectation that if an objective has a shorter

timescale, once it is completed, an additional or extended one can be set during the cycle. Where objectives are completed before the end of the cycle, reviewees should not agree to have replacement or extended objectives set.

It is possible to set an objective which extends over a period longer than one performance management cycle. Where this takes place it is important that the performance criteria reflect what progress would be anticipated at the end of the first cycle.

It is absolutely essential that the reviewee plays an active role in determining the objectives, classroom observation, other evidence, performance criteria, support, training and development, and timescales. The dialogue should be between two professional colleagues, not a meeting where the views of one party are simply imposed on another.

Reviewees should not be passive in the process to anything in the paragraphs above with which they are uncomfortable or which they believe to be unreasonable. **It is important to make every effort to seek to agree with the reviewer on the outcome which will be recorded on the planning and review statement.** However, this does not mean simply acquiescing to every point.

Recording plans (Regulation 14)

The planning section of the planning and review statement must make reference to the outcome of the discussions on all of the following:

- **objectives;**
- **classroom observation (where appropriate);**
- **other evidence;**
- **performance criteria in relation to the above;**
- **support, training and development;**
- **timescales.**

To maintain the confidentiality of the planning and review statement, all training and developmental needs should be recorded on a separate annex, to be passed by the reviewer to those responsible for addressing these.

At the end of the meeting the reviewer should summarise the key points that have been discussed and are to be included in the planning and review statement. It is helpful for these points, where practicable, to be recorded during the meeting. The reviewee should ensure s/he is content with the reviewer's summary.

Within five working days of the meeting the reviewee should receive a draft statement from the reviewer. If the reviewee or reviewer does not work or is absent during this period then the number of days may be extended.

The reviewee and reviewer should seek to agree the content of the statement. Where agreement cannot be reached the reviewer's view is recorded.

Within ten working days of the meeting the reviewee must have received the final statement which should be signed by both parties. The reviewee is entitled to add comments to the statement. These may state disagreement with or concern about the content of the statement. If a reviewee is unhappy or concerned about any aspect of their planning and review statement they are strongly advised to add a comment to that effect.

Not signing the statement will not invalidate it. Reviewees should therefore not use this as the means of expressing disagreement or concern.

Reviewees should be provided with a copy of the planning and review statement, and the training and development needs annex for their own reference.

Quality assurance and moderation (Regulation 15)

The headteacher has a duty to ensure that the procedures and processes are applied fairly and consistently across the school and in accordance with equal opportunities provision.

The headteacher may moderate the statements. S/he is not required to do so. It should be specified in the school performance management policy if the headteacher will moderate planning and review statements. If the headteacher is to moderate statements it must be within ten days of their completion. The headteacher may, where necessary, instruct the reviewer to prepare a new statement, if the original statement was not consistent with those for other teachers with similar experience or similar levels of responsibility; or the statement was not in line with the school's performance management policy or school improvement plan; or if it was not compliant with the regulations.

The headteacher can only moderate and ask for the planning section of the statement to be amended. **S/he cannot change the review outcome of the previous cycle.**

The new statement should be the subject of discussion with the reviewee in the same way as the original.

If a new statement is prepared, following discussion between the reviewee and reviewer this should be produced within ten working days.

The reviewee can add comments to this statement. Where a reviewee is concerned about the revised statement they should record their concerns clearly on it. They should sign the statement even if they have concerns (see above in 'Recording plans').

Where a reviewee has recorded concerns on the planning and review statement they should seek advice from the NASUWT about the possible next steps.

STAGE 2 – Monitoring Progress

The monitoring stage of performance management is covered by Regulations 16 and 17.

Following the planning and review meeting and during the performance management cycle the reviewee is entitled to:

- receive written feedback as it becomes available on any classroom observations specified in the planning and review statement;
- receive written evidence as it becomes available from any persons identified to provide other evidence at the planning meeting at the beginning of the cycle;
- receive any data as it becomes available determined at the planning meeting at the beginning of the cycle;
- receive feedback from the reviewer on progress and be given the opportunity to discuss this with the reviewer;
- be advised, at the time they arise, of any concerns and to have the opportunity to discuss these with the reviewer.

The reviewee should also ensure that any concerns they may have about progress or any aspect of support or training and development are raised with the reviewer at the time they arise. The reviewee is advised to keep a note of any concerns they raise, the date they were referred to the reviewer and what action was taken.

Concerns may be, for example, that support or training identified at the beginning of the cycle has not materialised.

There is no requirement in the regulations for formal or informal interim meetings to review progress during the cycle. The NASUWT believes that formalising such meetings has the potential to increase workload and bureaucratic burdens for the reviewee and reviewer. Such meetings are essentially unnecessary.

However, if either party thinks it would be helpful to meet to discuss matters this can be done on an ad hoc basis. A meeting can be requested by either party which should take place within a reasonable time of the request being made. Reviewees are advised that if they make a request to do so in writing and keep a copy. If a meeting takes place, reviewees should ensure that there is an agreed brief note kept of the purpose and outcome of the meeting. If they have concerns about any meeting, contact should be made with the NASUWT.

Changing the planning and review statement during the cycle (Regulation 16)

There may be occasions when it becomes necessary to consider changing what has been agreed in the planning section of the planning and review statement during the performance management cycle. (Changes cannot be made at any stage to the review outcome of the previous cycle.)

These occasions will be:

- where the reviewee's circumstances or responsibilities change;
- where the reviewee has been absent for such a period of time that some of the statements in the plan are no longer appropriate, e.g. on maternity leave or long-term sickness absence;
- where evidence emerges which gives rise to concerns about the reviewee's performance.

Where changes are necessary, a revision meeting should take place and the same process followed as for the original planning meeting. A written addition to the planning statement should be made. The reviewee and reviewer should sign to say that the additional statement is accurate. The reviewee, as before, is entitled to be given the opportunity to add any written comments.

Changes to a statement should not be triggered simply because there is a change in headteacher, line manager or reviewer.

Changes to circumstances may be that the reviewee develops a disability and reasonable adjustments may need to be made under the terms of the Disability Discrimination Act.

Changes to responsibilities or a change of post on a temporary or permanent basis may not require a change in either the statement or reviewer or that the cycle begins again. This will depend on the scale of the change. Each case will, therefore, need to be considered on its merits.

Where concerns arise about a reviewee's progress or performance during the cycle a decision will need to be made about the nature of the concern and how it should be addressed.

A concern may not, for example, merit any action at all. The concern may trigger a change to the planning statement and, in which case, a meeting in accordance with the Regulations would be convened. The reviewer would need to provide evidence that there were concerns which merited a change to the original statement.

A change to the statement on the grounds of evidence emerging of concerns about the reviewee's progress and performance would not automatically mean that there would be an unsuccessful outcome to the review at the end of the cycle. The revised plans would have to include new performance criteria and, subject to those being met, the outcome could be successful.

The reviewee has a right of appeal against any revision to the statement. If a meeting to revise the statement during the cycle is proposed by the reviewer, the reviewee is advised to contact the NASUWT for advice before attending.

If the concerns about performance are of such a nature that they bring into question capability then performance management would cease and the school's capability procedure used.

STAGE 3 – Reviewing Performance

This stage of performance management is covered by Regulation 18.

At the end of the cycle the reviewee and reviewer should meet to review performance. This will normally be the same meeting convened to plan for the next cycle.

Reviewees should make sure that in preparation for the review of their performance they:

- reflect on their achievements in the last cycle;
- identify any issues which impacted on their performance;
- consider any issues about the planned support, training and development they received;
- assess as far as possible the impact of any training and development including their own or anyone they may have supported.

It should be established at the start of the meeting that the reviewee and reviewer are working from the same documentation.

This should include:

- the planning information from the start of the cycle (and any revised statement if a change has taken place during the cycle following the formal process);
- the annex of training and professional developmental needs;
- written feedback on any classroom observation;
- any other evidence collected throughout the cycle which was identified in the planning statement;
- details of the support and training and development which have been provided during the cycle in accordance with the original annex.

All documentation to be referred to must be shared with the reviewee before the meeting to enable an informed discussion to take place.

Reviewees should ensure that the information is accurate. There should be no surprises in the documentation. There should be nothing included which was not identified at the original planning meeting (or any meeting which may have taken place during the cycle to revise the statement). No new information can be introduced at the review meeting.

The dialogue should focus on seeking to achieve a shared understanding of the progress made towards meeting the performance criteria.

If appropriate, any issues which may have impeded progress should be explored.

The reviewee and reviewer should seek to agree an overall assessment of performance against the performance criteria agreed at the outset of the cycle. The overall assessment must be recorded in the statement.

If no agreement on the overall assessment can be reached the reviewer should record their view. The reviewee is entitled to add comments and should certainly do so if they do not agree with the reviewer's view.

After overall performance has been assessed, if the reviewee is eligible, the pay progression recommendation should be considered and made.

The pay recommendation should be passed to the headteacher who will pass this to the governing body for a decision to be made. **The headteacher cannot change the pay recommendation.**

Right of appeal (Regulation 19)

The governing body is required by law to have established an appeal procedure.

A reviewee can use this procedure to appeal against any entry on their planning and review statement at the beginning of the cycle.

Where a reviewee wishes to appeal on the basis of more than one entry on the statement this would constitute one appeal hearing. The reviewee can appeal against the overall assessment of performance for the last cycle, the pay recommendation and/or any aspect of planning for the next cycle.

Where the headteacher moderates the planning part of the planning and review statement consideration of an appeal should be deferred until this process is completed.

There should be a genuine attempt to seek to resolve simple disagreement by discussion rather than appeal.

If there is a revision to the planning part of the planning and review statement during the cycle, the reviewee may appeal against any change to the statement.

Advice should be taken from the NASUWT before lodging an appeal.

Use and retention of the statements

This is governed by Regulation 20 which reviewees are advised to read in full.

Reviewees should receive a copy of their planning and review statement and the training and development annex.

Reviewers do not retain personal copies but pass the completed statement to the headteacher.

If anyone makes a request to the headteacher for access to the planning and review statement during the cycle reviewees are entitled to be told about the request and why it has been made.

The statement must be kept by the school for a minimum of six years from the date on which the cycle to which it relates started.

LINE MANAGERS (Reviewers)

This section provides specific information and advice for the line managers, who are designated by the headteacher as reviewers, on key issues and actions required at each stage of the process. This should be read in conjunction with section 1 of this guide.

Reviewers are strongly advised to familiarise themselves with the 2006 Regulations in Annex 1 of this guide.

Reviewers should also read the 'How to Sheets' in Annex 3, specifically the one relating to the preparation and support of reviewers.

Appointment of reviewers (Regulation 11)

The headteacher is the reviewer for all teachers unless s/he chooses to delegate this role. In circumstances where the headteacher chooses to delegate reviewer responsibilities, the person selected by the headteacher is responsible for carrying out the annual performance management process in its entirety. Anyone designated as a reviewer takes responsibility for all aspects of the role in its entirety. Reviewers cannot be asked to undertake all parts of performance management except, for example, the pay recommendation.

Only line managers, i.e. the person who directs, manages and has the post of responsibility in which a reviewee mainly works, can be selected as reviewers.

A reviewer must be a designated line manager and have this responsibility in their job description. Teachers who have whole school unremunerated responsibilities, such as subject co-ordination, whether or not they are considered to be line managers, should not agree to become reviewers.

The workload implications for reviewers must be considered and addressed by the school. If there is a discrepancy between the number of reviewees each line manager has, the school's performance management policy should detail how this will be dealt with. There is no requirement to distribute the number of reviewees evenly between reviewers but a school may choose to do this. Where a more equal distribution is opted for, if the teacher's direct line manager is not to carry out the review, then the reviewer must be someone of equal or higher status to the teacher's direct line manager.

Whatever the number of reviewees allocated to each reviewer, time must be given to reviewers to carry out all aspects of the role.

Planning, preparation and assessment time cannot be used for performance management activities. Lunch breaks should not be used. Leadership and management time could be used but discussions would need to take place to identify how other leadership and management activities will be managed and supported.

Reviewees can in exceptional circumstances request a change of reviewer. They can only do this for professional reasons. The request is made to the headteacher in writing giving reasons. Any reviewer who has concerns about the reasons given about them to support the request for a change should contact the NASUWT for advice.

Training and support

Reviewers should have received appropriate training for the role. They should have been clearly briefed by the headteacher on their role, particularly the parameters in which they are working when identifying for example the training and development needs of reviewees. Annex 3 of this guide contains a 'How to Sheet' on addressing the effective preparation and support of reviewers.

STAGE 1 – Planning

Planning for the performance management cycle is covered by Regulations 13, 14 and 15.

Planning for the next cycle will normally take place at the same meeting scheduled to review performance for the last cycle.

The reviewer should:

- ensure the meeting is scheduled as far in advance as possible. It would be good practice for the school to calendar the dates. The meeting should be confirmed at least five working days in advance. In exceptional circumstances, if the meeting cannot take place a new date should be scheduled with at least five working days' notice;
- seek to agree the date, time and venue of the meeting with the reviewee. Lunch breaks and planning, preparation and assessment time must not be used for this purpose;
- ensure sufficient time is set aside for the meeting. An hour should be sufficient in most cases;
- seek to ensure the venue is private and will, as far as possible, be free from interruptions.

Preparing for the meeting

The reviewer should ensure prior to the meeting that s/he and the reviewee have all the documentation to be used at the meeting.

The documentation for planning for the next cycle should include:

- the reviewee's job description;
- the school improvement plan;
- a copy of the school's performance management policy;
- a copy of the professional standards relevant to the reviewee's career stage;
- a copy of the relevant section of the School Teachers' Pay and Conditions Document relating to pay progression criteria for those reviewees eligible for pay progression.

The reviewer will need to be familiar with all the documents. A reviewer who is the direct line manager of the reviewee should be in a good position to discuss priorities for the next cycle. A reviewer who is not the direct line manager for the reasons stated earlier in this section should seek to discuss the possible priorities for the next cycle with the reviewee's direct line manager prior to the meeting.

In the meeting

In planning for the next cycle the reviewer should start from an assumption that the reviewee is meeting all the requirements of their job description, their relevant duties and the relevant professional standards.

There is no need, therefore, for every aspect of the reviewee's responsibilities to be considered in the planning for the next cycle.

The plans should focus only on priorities for the cycle and any areas where specific action is required.

The plans should be realistic and manageable and enable the reviewee to achieve their contractual entitlement to a satisfactory work/life balance.

The plans should be made in accordance with the school's performance management policy and should cover the following areas:

- the reviewee's objectives (Regulation 13);
- any arrangements for observing the reviewee's performance in the classroom (Regulations 13 and 17);
- other evidence (Regulation 13);
- performance criteria for the above (Regulation 13);
- support, training and development (Regulation 13);
- timescales (Regulation 13).

These are expanded below. Reviewers are advised to read the relevant regulations in full.

The reviewee's objectives

The NASUWT policy is for no more than three objectives. The school's performance management policy should set out the school's policy on objective setting.

The objectives may include a whole school objective shared by every teacher, including the head, or a year, team or departmental objective shared with other colleagues. The school's performance management policy should specify the position on this.

The reviewer should ensure that the reviewee's objectives:

- are clear, concise, realistic, achievable and measurable;
- relate directly to their job description;
- focus on issues over which reviewees have direct influence/control;
- do not include voluntary and/or extracurricular activities;
- take into account any relevant factors which might impact on the reviewee's ability to meet the performance criteria such as disruptive pupils, large class sizes, pupils with special needs statements in mainstream classes without adequate support or resources;
- reflect whether the reviewee works part time or requires reasonable adjustments to support a disability.

Reviewers should avoid setting complex objectives with multiple sub-sections.

The arrangements for observing the reviewee's performance in the classroom

The school's performance management policy must contain a classroom observation protocol which sets out how, in accordance with the regulations, classroom observation will be conducted.

Classroom observation should not be undertaken for its own sake. There should be a clear rationale for identifying any observation to be undertaken. There must be a specified focus for each observation and the amount identified within the three-hour limit. The three-hour limit is a maximum not a standard. **There is no need for any or all of the three hours to be used. It should be proportionate to need.**

This is particularly important for reviewees who work part time. Although the regulations do not specify that classroom observation should be pro rata, account should be taken of the time worked when identifying what proportion of the three hours, if any, will be used.

The reviewer should make it clear to the reviewee who will be conducting the classroom observation. It may be the reviewer but it does not have to be. Whoever does the observation

must be a qualified teacher who should have had adequate preparation and have the appropriate skills to give written and oral feedback.

Other evidence

The planning statement must specify the other evidence which will be considered in the review at the end of the cycle and who will be providing it. It should not be information directly from pupils or parents. Any written feedback must only be from specific individuals who have direct professional knowledge of the reviewee's work.

The other evidence may relate to areas of work not related to the classroom observation or objectives.

Performance criteria

The performance criteria must set out clearly what success for the reviewee in relation to objectives, classroom observation and other evidence would look like at the end of the cycle. The criteria should provide clarity for the reviewee about the basis on which the reviewer will assess overall performance based on progress towards the achievement of objectives, classroom observation and other evidence.

Where the reviewee is eligible for pay progression at the end of the cycle the performance criteria should take into account the relevant pay progression criteria in the STPCD. The objectives set should be such that in meeting the performance criteria related to them or making good progress towards them the reviewee will have satisfied the pay progression criteria at the end of the cycle.

The following teachers are eligible for pay progression:

- those on the pay scale for post-threshold teachers;
- those on the pay spine for the leadership group;
- those on the pay spine for Advanced Skills Teachers.

Reviewers should avoid setting performance criteria which are simply percentage target increases in pupil progress.

Support, training and development

A key part of the discussion must be the support the reviewee may need to meet the performance criteria, the reviewee's training and development needs and how these will be met.

The reviewer should be clear from the outset about the parameters in which they are operating with regard to providing support, training and development opportunities for reviewees. It is the responsibility of the headteacher to make this clear to all reviewers so that there is consistency of approach.

Support for a reviewee could be in a number of forms, e.g in class assistance from support staff, equipment, ICT or mentoring/coaching from another member of staff.

Training and development may include identifying appropriate courses but not necessarily. This is one possible option. Some of the most effective professional development is based on teachers working with other teachers working with pupils in the classroom. Training and development could include, for example, coaching or mentoring by an experienced colleague, team teaching or observation of demonstration lessons.

Reviewers should not seek to press reviewees to undertake training and development in their own time or at weekends or during holidays.

Timescales

The timescale in which each objective should be met should be realistic and clear.

Most objectives are likely to be targeted for completion during or by the end of the annual performance management cycle.

If a shorter timescale than the whole cycle is proposed for one or more of the objectives, the reviewer should carefully assess whether this is realistic or achievable before proposing it. There must be no expectation that if an objective has a shorter timescale, once it is completed, an additional or extended one can be set during the cycle. Where objectives are completed before the end of the cycle, reviewers should not seek to set replacement or extended objectives.

It is possible to set an objective which extends over a period longer than one performance management cycle. Where this takes place it is important that the performance criteria reflect what progress would be anticipated at the end of the first cycle when the review takes place.

Recording plans (Regulation 14)

A model planning and review statement is in this guide in Annex 2. The NASUWT recommends its use. The school should have a standard recording format. There is no justification for lengthy, bureaucratically burdensome forms.

The planning part of the planning and review statement must include the outcome of the discussion on:

- objectives;
- classroom observation (where appropriate);
- other evidence;
- performance criteria relating to each of the above;
- support, training and development;
- timescales.

To maintain the confidentiality of the planning and review statement, all training and development needs should be recorded on a separate annex, which will be passed by the headteacher to those responsible for addressing them when s/he receives the planning and review statement from the reviewer.

At the end of the meeting the reviewer should summarise the key points that have been discussed and which are to be included in the planning section of the planning and review statement. It is helpful for the reviewer to record these points where practicable during the meeting. This will not only minimise workload for the reviewer but it also avoids misinterpretation at a later stage.

The reviewer should seek to agree the contents of the statement with the reviewee. The reviewee may request changes. The reviewer does not have to agree the changes but the reviewee is entitled to write whatever comment s/he considers appropriate on the statement.

It is important to seek to resolve disagreement by discussion. Where this is not possible the reviewer's views should be recorded. The reviewee may add final comments before signing. These may state disagreement with or concern about the content of the statement.

Within five working days of the meeting the reviewer should provide a draft statement to the reviewee. Within ten working days of the meeting the reviewee must have received the final statement which should be signed by both parties. Reviewees should be advised that choosing not to sign the statement will not invalidate it and not signing should not be used as the means by which concerns are indicated.

If the reviewee or reviewer does not work or is absent during the five/ten-day period above the time may be extended. The reviewer should make clear in these circumstances when the statement will be provided and it should be as soon as possible.

The reviewer should provide the reviewee with a copy of the planning and review statement, and the training and developmental needs annex for their own reference.

The reviewer should pass the completed statement to the headteacher.

Quality assurance and moderation (Regulation 15)

The headteacher has a duty to ensure that the procedures and processes are applied fairly and consistently across the school and in accordance with equal opportunities provision. Annex 3 contains a 'How to Sheet' relating to equal opportunities.

The procedures for moderation should be included in the school's performance management policy. Whilst the regulations permit the headteacher to moderate there is no requirement for the headteacher to do so.

The school's performance management policy may state that the headteacher will moderate all or a sample of planning and review statements within ten days of their completion. The headteacher in these circumstances is only moderating the planning for the next cycle section of the statement. The reviewer may be instructed to prepare a new statement if the headteacher considers the original statement was not consistent with those for other teachers with similar experience or similar levels of responsibility; or the statement was not in line with the school's performance management policy or school improvement plan; or the statement does not comply with the regulations.

If a new statement is to be prepared a meeting should take place between the reviewee and reviewer which should be conducted in the same way as for the preparation of the original statement. The new statement should be produced by the reviewer within ten working days. The reviewee is entitled to add written comments to this statement in the same way as they could to the original one.

STAGE 2 – Monitoring Progress

The monitoring of progress during the cycle is covered by Regulations 16 and 17.

During the performance management cycle the reviewer should ensure that the reviewee:

- receives a copy of written feedback on any classroom observations identified in the planning at the beginning of the cycle;
- receives written evidence as it becomes available from any persons identified at the beginning of the cycle to provide it;
- receives any data as determined at the planning meeting at the beginning of the cycle as it becomes available;
- receives at the appropriate time in the cycle the support and training and development identified at the beginning of the cycle;

- is advised at the time it arises of any evidence of concerns and have the opportunity to discuss it.

The reviewer should from time to time throughout the cycle give feedback to the reviewee on progress. This does not necessarily need to be formalised but there should be an opportunity for the reviewee to discuss the feedback. Giving feedback on positive progress is equally as important as identifying any concerns.

There is no requirement in the regulations for formal or informal interim meetings to review progress during the cycle. Formalising such meetings has the potential to increase workload and bureaucracy for the reviewer and reviewee. Such meetings are essentially unnecessary.

If either party thinks it would be helpful to meet to discuss matters an ad hoc meeting can be requested. This should take place within a reasonable time of the request being made. Where reviewers make such a request they are advised to do so in writing and keep a copy. If a meeting takes place in these circumstances, reviewers should ensure that it is arranged in accordance with the guidance on workload in section 1 of this guidance and that there is an agreed brief note of the purpose and outcome of the meeting.

There is an equal responsibility on the reviewee and reviewer to raise any concern about any aspect of the process as it arises.

Changing the planning and review statement during the cycle (Regulation 16)

There may be occasions when it becomes necessary to change what has been agreed in the planning section of the planning and review statement during the performance management cycle. (Changes cannot be made to the review outcomes of the previous cycle.)

These occasions will be:

- where the reviewee's circumstances or responsibilities change;
- where the reviewee has been absent for a period of time, for example on maternity leave or long-term sickness absence;
- where evidence emerges which gives rise to concerns about the reviewee's performance.

Where changes are necessary the reviewer should convene a revision meeting and the reviewer should follow the same process as at the original planning meeting. A written addition to the statement should be made on the outcome of the meeting. The reviewee and reviewer should sign the statements and the reviewee is entitled to add comments.

Changes to the planning statement should not be triggered simply because there is a change in headteacher, line manager or reviewer.

Changes to circumstances may, for example, be that the reviewee has developed a disability which requires reasonable adjustments to be made under the terms of the Disability Discrimination Act.

Changes to responsibilities or a change of post on a temporary or permanent basis may not require a change in the statement or reviewer or that the cycle begins again. This will depend on the scale of the change. Each case will need to be considered on its merits.

If any evidence emerges which gives rise to concern this should be drawn to the attention of the reviewee at the time it arises. A decision will need to be made at that time whether the concern merits a review of the planning statement which was agreed at the beginning of the cycle. If they merit a review of the planning part of the statement then the formal regulatory

process (Regulation 16) for doing this should be followed. If the reviewer considers the concerns do not merit a review of the statement then they cannot be introduced or referred to at a later stage in the process.

A change to the statement on the grounds of concerns about the reviewee's progress and performance would not automatically mean that there would be an unsuccessful outcome to the review at the end of the cycle. The revised plans would have to include new performance criteria and, subject to those being met, the outcome could be successful.

If the concerns are so serious as to be potentially capability issues, the matter should be referred to the headteacher for consideration under the school's capability procedures and performance management should cease.

STAGE 3 – Reviewing Performance

The review of performance is covered by Regulation 18.

At the end of the cycle the reviewee and reviewer meet to review performance. This will normally be the same meeting convened to plan for the next cycle and the same arrangements for scheduling the meeting should therefore apply.

The reviewer should establish at the start of the meeting that s/he and the reviewee are working from the same documentation.

For the review the documentation should include:

- the planning information from the start of the cycle (and any revised statement where a change has taken place during the cycle following the formal regulatory process);
- written feedback on any classroom observation agreed at the beginning of the cycle;
- any other evidence collected throughout the cycle which was identified at the beginning of the cycle;
- details of the support and training and development in accordance with the planning at the beginning of the cycle which has been provided.

All documentation to be used should be checked with the reviewee prior to the meeting to ensure they have all the information to enable an informed discussion to take place.

Reviewers should ensure that the information is accurate and that nothing has been included which was not recorded on the planning statement. No new information can be introduced at the review meeting.

The dialogue during the review should focus on seeking to achieve a shared understanding of the progress made towards meeting the performance criteria.

If progress has been impeded, any issues which may have caused this should be explored.

Making good progress towards the performance criteria could result in a positive outcome, not just meeting the criteria. A judgement will need to be made.

The reviewer should seek to agree with the reviewee an overall assessment of performance against the performance criteria agreed at the outset of the cycle. This should be recorded in the review section of the planning and review statement.

Both parties should seek to reach an agreed outcome, but if no agreement can be reached then the reviewer should record their view. The reviewee is entitled to add comments.

If the reviewee is eligible for pay progression, following the overall assessment against the performance criteria a pay recommendation should be made.

The pay recommendation will be passed to the headteacher as part of the planning and review statement. The headteacher will pass the pay recommendation to the governing body for a decision to be made. **A headteacher cannot amend a pay recommendation made by a reviewer.**

Right of appeal (Regulation 19)

The reviewer should make available to the reviewee at the end of the planning and review meeting a copy of the school's appeal procedure.

The governing body is required by law to have established an appeal procedure.

A reviewee can use these procedures to appeal against any entry on their planning and review statement. Where a reviewee wishes to appeal on the basis of more than one entry this would constitute one appeal hearing.

If the headteacher in accordance with the school's policy moderates the planning part of the planning and review statements in accordance with the school's performance management policy, then any consideration of an appeal should be deferred until this process is completed.

Both the reviewer and reviewee should seek to resolve simple disagreement by discussion rather than appeal.

The role of the reviewer in an appeal will depend on the nature of the appeal. It is likely that the reviewer would be asked to provide evidence to an appeal hearing to justify an entry they made on the planning and review statement.

Use and retention of the planning and review statement

This is governed by Regulation 20 which the reviewer is advised to read in full.

The reviewer should ensure that the reviewee receive for their own reference a copy of their planning and review statement and the training and development annex.

Reviewers do not retain personal copies and should pass the completed planning and review statement and the training and development annex to the headteacher.

Reviewers are able to access planning and review statements of their reviewees should it be necessary during the performance management cycle.

ANNEX 1

Statutory Instrument 2006 No. 2661

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STATUTORY INSTRUMENTS

2006 No. 2661

EDUCATION, ENGLAND

The Education (School Teacher Performance Management) (England) Regulations 2006

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|-------------------------------|---------------------------|
| <i>Made</i> | <i>4th October 2006</i> |
| <i>Laid before Parliament</i> | <i>9th October 2006</i> |
| <i>Coming into force</i> | <i>1st September 2007</i> |

The Secretary of State for Education and Skills makes the following Regulations in exercise of the powers conferred by sections 21, 131 and 210 of the Education Act 2002(1).

In accordance with section 131(6) of that Act he has consulted with such associations of local education authorities, bodies representing the interests of governing bodies and bodies representing the interests of teachers, as appeared to him to be appropriate.

PART 1

General

1. —(1) These Regulations may be cited as the Education (School Teacher Performance Management) (England) Regulations 2006 and shall come into force on 1st September 2007.

(2) These Regulations shall apply in relation to England.

Interpretation

2. In these Regulations—

“the Act” means the Education Act 2002;

“authority”, in relation to a teacher to whom Part 3 applies, means the local education authority by which he is employed;

“appeal”, in relation to a teacher to whom Part 2 applies, means raise a grievance in accordance with the procedure established by the governing body of the school for dealing with such matters and, in relation to a teacher to whom Part 3 applies, means raise a grievance in accordance with the procedure laid down by the authority for dealing with such matters;

“capability procedures” means the procedures established by the governing body pursuant to regulation 7 of the School Staffing (England) Regulations 2003(2);

“classroom” in relation to “classroom observation” means any type of setting where teaching and learning takes place;

“cycle” means the performance management and review cycle referred to in regulations 12 and 26;

“day” means any day in the school year on which a teacher is required to be available for work;

“the Document” means the document referred to in any order made under section 122 of the Act for the time being in force;

“nursery school” means a nursery school maintained by a local education authority;

“pay progression criteria” means the criteria referred to in the Document for determining whether a teacher is eligible for a pay award of one or more scale or spine points;

“performance criteria” means the criteria against which the reviewee’s performance will be judged in relation to the matters referred to in regulations 13(1)(a) to (c) or 27(1)(a) to (c), as the case may be;

“plan” means the plan for managing and reviewing the reviewee’s performance referred to in regulations 14(1) and 28(1);

“qualified teacher” means a person who satisfies requirements specified in regulations made under section 132 of the Act;

“school” means a community, voluntary, foundation, community special or foundation special school or a nursery school;

“school development planning” means the process of putting in place a plan which specifies the actions needed to bring about school improvement as part of the school improvement process;

“school improvement” means the processes put in place by the governing body of the school to improve standards at the school;

“school improvement partner” means any person appointed by the local education authority for the purposes of providing advice to the governing body and head teacher of the school with a view to improving standards at the school and who is for the time being accredited for those purposes by the Secretary of State or by a person authorised by the Secretary of State to accredit persons for those purposes;

“School Improvement Plan” means the strategic plan setting out the objectives to improve the school’s provision and performance;

“school self-evaluation” means the arrangements put in place by the governing body of the school to evaluate the quality of school provision as part of the school improvement process;

“school which has a religious character” means a foundation or voluntary school designated as a school having such a character under section 69(3) of the School Standards and Framework Act 1998(3);

“statement” means the planning and review statement referred to in regulations 14(1) and 28(1);

“teacher” means a school teacher as defined in section 122 of the Act;

“unattached teacher” means—

(a) a teacher not attached to a particular school;

(b) a teacher employed otherwise than at a school; or

(c) a teacher at a pupil referral unit (including a teacher in charge of a unit).

Time limits

3. Failure on the part of any person to discharge any duty within a time limit specified in these Regulations shall not relieve him of that duty.

Revocations and transitional provision

4. —(1) Subject to paragraph (2), the Education (School Teacher Appraisal) (England) Regulations 2001(4) (“the 2001 Regulations”) are revoked.

(2) The 2001 Regulations shall apply in relation to the appraisal of the performance of teachers during any part of the school year 2006-2007.

(3) Any appraisal statement produced and retained under the 2001 Regulations since 1st September 2003 shall be retained for a minimum period of 6 years from the date on which the appraisal cycle to which it relates ended and relevant information from those statements may be taken into account in taking decisions and advising those responsible for taking decisions about the use of any discretion in relation to pay.

(4) Regulation 9 of the Education (School Government) (Terms of Reference) (England) Regulations 2000(5) is revoked.

Application

- 5.**—(1) Subject to paragraph (2), these Regulations apply in relation to any teacher employed for one term or more.
- (2) These Regulations shall not apply to the performance of—
- (a) any teacher who is undergoing but who has not satisfactorily completed an induction period in accordance with the Education (Induction Arrangements for School Teachers) (Consolidation) (England) Regulations 2001(6);
 - (b) any teacher whilst he is the subject of capability procedures.

PART 2

Provisions Applying to Teachers Employed at Schools

Application of Part 2

- 6.** Part 2 applies to the performance management and review of any teacher who is employed by—
- (a) a local education authority in a school; or
 - (b) the governing body of a school.

Performance management policy

- 7.**—(1) The governing body shall establish a written policy (“the performance management policy”) setting out how the performance of teachers at the school is to be managed and reviewed.
- (2) The governing body shall formulate the performance management policy or direct the head teacher to formulate the policy.
 - (3) Where the head teacher formulates the policy, the governing body may modify it before adopting it or reject it.
 - (4) Where the governing body rejects the performance management policy formulated by the head teacher, it shall formulate the policy itself.
 - (5) The governing body shall review the performance management policy every school year.
 - (6) Following such review, the governing body shall, if it sees fit, revise the performance management policy.
 - (7) Before establishing or revising the performance management policy, the governing body or, if the governing body so directs, the head teacher shall—
 - (a) consult all teachers at the school; and
 - (b) seek to agree the policy or any revision to it with the recognised trade unions, having regard to the results of the consultation of all teachers.
 - (8) The governing body and the head teacher shall implement the performance management policy.
 - (9) The performance management policy shall—
 - (a) state what results the policy is intended to achieve and how these will be measured;
 - (b) show how the school’s arrangements for school teacher performance management link with those for school improvement, school self-evaluation and school development planning;
 - (c) show how the school will seek to achieve consistency of treatment and fairness between those teachers with similar experience or levels of responsibility;
 - (d) set out the timing of the cycle;
 - (e) include a classroom observation protocol;
 - (f) provide for performance management training to be made available as the need arises;

- (g) state the arrangements for monitoring and evaluating the policy; and
- (h) specify any ancillary or supplementary procedures necessary for the operation of performance management of teachers at the school in accordance with these Regulations.

Duty to ensure that teachers' performance is managed and reviewed

8. —(1) The governing body of the school shall ensure that the performance of teachers at the school is managed and reviewed in accordance with the performance management policy and this Part.

- (2) Where a teacher is employed at more than one school, the governing body of each school shall comply with this regulation in relation to that teacher.

Appointment of external advisers in respect of head teachers

9. —(1) Subject to paragraph (2), the governing body shall appoint an external adviser for the purposes of providing it with advice and support in relation to the management and review of the performance of the head teacher.

- (2) Where the local education authority has appointed a school improvement partner for that school, paragraph (1) shall not apply and the governing body shall use the school improvement partner for the purposes of providing it with advice and support in relation to the management and review of the performance of the head teacher.

Appointment of reviewers for head teachers

10. —(1) Subject to the following paragraphs of this regulation, the governing body of the school shall be the reviewer for the head teacher.

- (2) The governing body may appoint two or three governors to perform the duties imposed upon the reviewer on behalf of the governing body.
- (3) No governor who is a teacher or other member of staff at the school may be appointed as a reviewer for the head teacher.
- (4) Where the governing body of a school which has a religious character appoints two or three governors pursuant to paragraph (2), at least one of them shall be a foundation governor of the school.
- (5) Where, pursuant to paragraph (2), the governing body of a voluntary aided school appoints—
 - (a) two governors, at least one of them shall be a foundation governor of the school; and
 - (b) three governors, not less than two of them shall be foundation governors of the school.
- (6) Where a head teacher is of the opinion that any of the governors appointed by the governing body under this regulation is unsuitable for professional reasons, he may submit a written request to the governing body for that governor to be replaced, stating those reasons.
- (7) Where the governing body is persuaded that that governor is unsuitable, it shall terminate that appointment and appoint another governor in accordance with this regulation.
- (8) Where the governing body is not persuaded that that governor is unsuitable, it shall—
 - (a) notify the head teacher in writing of its decision, stating its reasons; and
 - (b) upon request, attach the head teacher's request and the notification of its rejection of that request to the statement for that cycle.
- (9) A reviewee may request that any governor appointed under paragraph (2) be replaced once in any cycle.
- (10) Where the governing body decides at any time that any of the governors appointed under this regulation is no longer suitable for professional reasons, or is no longer able to perform his duties for any reason, it shall terminate the appointment of that governor and appoint one in accordance with this regulation.

Appointment of reviewers for other teachers

11. —(1) Subject to the following paragraphs of this regulation, the head teacher shall be the reviewer for all other teachers at the school.

- (2) In the case where the head teacher is not the teacher's line manager, the head teacher may delegate the duties imposed upon the reviewer, in their entirety, to the teacher's line manager.
- (3) Where the teacher has more than one line manager, the head teacher may delegate the reviewer's duties, in their entirety, to the line manager whom he considers would be best placed to manage and review the teacher's performance.
- (4) Where it becomes apparent that the teacher to whom the head teacher has delegated the reviewer's duties will be absent for the majority of the cycle, the head teacher may perform those duties himself or delegate those duties, in their entirety, to another teacher for the duration of that absence.
- (5) Where a teacher is of the opinion that the person to whom the head teacher has delegated the reviewer's duties is unsuitable for professional reasons, he may submit a written request to the head teacher for that reviewer to be replaced, stating those reasons.
- (6) Where the head teacher is persuaded that the teacher to whom he has delegated the reviewer's duties is unsuitable, he may perform those duties himself or delegate them, in their entirety, to another teacher.
- (7) Where the head teacher is not persuaded that the teacher to whom he has delegated the reviewer's duties is unsuitable, he shall—
 - (a) notify the teacher in writing of his decision, stating his reasons; and
 - (b) upon request, attach the teacher's request and the notification of his rejection of that request to the statement for that cycle.
- (8) A reviewee may request that a person to whom the head teacher has delegated the reviewer's duties be replaced once in any cycle.
- (9) Where the head teacher decides at any time that the person to whom he has delegated the reviewer's duties is no longer suitable for professional reasons, or is no longer able to perform those duties for any reason, he may perform those duties himself or delegate them, in their entirety, to another teacher.
- (10) Where, pursuant to this regulation, the head teacher delegates the reviewer's duties to a teacher who is not the teacher's line manager, the teacher to whom he delegates those duties must have an equivalent or higher status in the staffing structure than the teacher's line manager.

Performance management and review cycle

12. —(1) Subject to the following paragraphs of this regulation, the performance of every teacher at the school shall be managed and reviewed on an annual basis ("the performance management and review cycle").

- (2) The governing body shall determine the timing of the performance management and review cycle for the head teacher and the head teacher shall determine the timing of the performance management and review cycle for the other teachers at the school.
- (3) Where a teacher is employed at the school on a fixed term contract of less than one year, his performance shall be managed throughout the life of the contract and reviewed at the end of the contract.
- (4) Where a teacher is employed at the school part-way through a cycle, the head teacher or, in the case where the teacher is the head teacher, the governing body shall determine the length of the first cycle for that teacher, with a view to bringing his cycle into line with the cycle for other teachers at the school as soon as possible.
- (5) Where a teacher transfers to a new post within the school, whether on a temporary or permanent basis, part-way through his cycle, the head teacher or, in the case where the teacher is to be the head teacher, the governing body shall determine whether the cycle shall begin again and, if so, whether to change the reviewer or reviewers, as the case may be.
- (6) A change of reviewer or the appointment of a new external adviser or school improvement partner shall not cause the reviewee's cycle to begin again.

Planning meetings

13. —(1) At the beginning of each cycle, the reviewer or, in the case where the reviewee is the head teacher, all the reviewers and the external adviser or school improvement partner, as the case may be, shall arrange a meeting with the reviewee ("the planning meeting") to consider and determine—

- (a) the reviewee's objectives;
 - (b) the arrangements for observing the reviewee's performance in the classroom, where appropriate;
 - (c) any other evidence which will be taken into account in judging the reviewee's performance;
 - (d) the performance criteria;
 - (e) the support that will be provided to the reviewee to help him to meet the performance criteria;
 - (f) the timescales for the achievement of the objectives and within which support will be provided, where these differ from the length of the cycle of the reviewee; and
 - (g) the reviewee's training and development needs and the actions which will be taken to address them.
- (2) The matters referred to in paragraph (1) shall be determined having regard to—
- (a) the reviewee's job description;
 - (b) any relevant pay progression criteria;
 - (c) any relevant whole-school or team objectives specified in the School Improvement Plan;
 - (d) what can be reasonably expected of any teacher in that position given the desirability of the reviewee being able to achieve a satisfactory balance between the time required to discharge his professional duties and the time required to pursue his personal interests outside work;
 - (e) the reviewee's professional aspirations; and
 - (f) the relevant professional standards.
- (3) The reviewee's objectives shall be such that, if they are achieved, they will contribute to improving the progress of pupils at the school.
- (4) Only persons who have a direct professional knowledge of the reviewee may provide evidence for the purposes of paragraph (1)(c).
- (5) Where a joint determination cannot be made in relation to any of the matters referred to in paragraph (1), the reviewer shall make the determination.

Recording of plans

14. —(1) Within 5 days of the planning meeting, the reviewer shall—

- (a) prepare a planning and review statement in respect of the reviewee in draft, in which he shall record the plan for managing and reviewing the reviewee's performance, comprising the matters referred to in regulation 13(1)(a) to (f) and, in a separate annex to the statement, ("the Training and Development Annex"), the matters referred to in regulation 13(1)(g); and
 - (b) pass the draft statement to the reviewee, who may add his comments.
- (2) Within 10 days of the planning meeting, the reviewer shall—
- (a) prepare and sign a final version of the plan in the statement;
 - (b) make the statement available to the reviewee, who may add his comments;
 - (c) where the reviewee is a teacher and the reviewer is not the head teacher, pass the signed statement to the head teacher or where the reviewee is the head teacher and the review is conducted by individual governors, pass the signed statement to the governing body;
 - (d) provide a copy of the statement to the reviewee; and
 - (e) provide a copy of the Training and Development Annex to the person responsible for planning the training and development of teachers at the school.

- (3) Subject to the outcome of any appeal, the contents of the plan shall be deemed to reflect the results of the planning meeting.
- (4) The time limit specified in paragraphs (1) and (2) may be extended if the reviewer or the reviewee is absent from work during those times.
- (5) The plan shall be recorded in the statement by 31st October or, where the reviewee is the head teacher, by 31st December, following completion of the previous cycle.

Quality assurance and moderation of plans

15. —(1) Where individual governors perform the reviewer's duties on its behalf, the governing body may review the contents of the plan recorded in the head teacher's statement within 10 days of it being passed to it pursuant to regulation 14(2)(c).

(2) Where, pursuant to paragraph (1), the governing body is of the opinion that the plan—

- (a) is inconsistent with the school's improvement priorities; or
- (b) does not comply with the performance management policy or any relevant requirement in these Regulations,

it shall instruct the reviewers to prepare a new plan and statement.

(3) Where the head teacher delegates the reviewer's duties to another teacher he may review the contents of the plan recorded in the statement within 10 days of it being passed to him pursuant to regulation 14(2)(c).

(4) Where, pursuant to paragraph (3), the head teacher is of the opinion that any such plan—

- (a) is inconsistent with the plans recorded in the statements of other teachers at the school who have similar experience or similar responsibilities; or
- (b) does not comply with the performance management policy or any relevant requirement in these Regulations,

he shall instruct the reviewer to prepare a new plan and statement.

(5) Within 10 days of receiving an instruction pursuant to paragraph (2) or paragraph (4), the reviewer shall—

- (a) consult the reviewee;
- (b) prepare a new plan, record it in a new statement and sign the statement;
- (c) make the statement available to the reviewee, who may add his comments;
- (d) pass the signed statement to the head teacher, or the governing body, as the case may be;
- (e) provide a copy of the statement to the reviewee; and
- (f) provide a copy of the Training and Development Annex to the person responsible for planning the training and development of teachers at the school.

(6) The time limit specified in paragraph (5) may be extended if the reviewer or reviewee is absent from work during that time.

Revision of plans

16. —(1) Where, during the course of any cycle—

- (a) the reviewee's circumstances or responsibilities change;
- (b) evidence emerges which gives rise to concern about the reviewee's performance but which does not justify the application of capability procedures; or
- (c) the reviewee is absent for such a period of time that some of the entries in the plan recorded in the statement are no longer appropriate,

the reviewer or the reviewee may request a meeting (a “revision meeting”) and that meeting shall be held within 10 days.

- (2) Within 10 days of the revision meeting, the reviewer shall—
 - (a) record any changes in the plan agreed at the meeting in the form of an addendum to the original statement or, where there is no agreement, any changes he thinks ought to be made to the plan and sign the addendum;
 - (b) make the revised statement available to the reviewee, who may add his comments to the addendum;
 - (c) where the reviewee is a teacher and the reviewer is not the head teacher, pass the signed revised statement to the head teacher or, where the reviewee is the head teacher and the review is conducted by individual governors, pass the signed statement to the governing body;
 - (d) provide a copy of the revised statement to the reviewee; and
 - (e) where the addendum relates to the training and development of the reviewee, provide a copy of the addendum to the person responsible for planning the training and development of teachers at the school.
- (3) Subject to the outcome of any appeal, the contents of the addendum shall be deemed to reflect the results of the revision meeting.
- (4) The time limit specified in paragraphs (1) and (2) may be extended if the reviewer or reviewee is absent from work during that time.
- (5) The statement shall not be revised unless a revision meeting has been held pursuant to paragraph (1).

Classroom observation

17.—(1) Classroom observation shall be conducted in accordance with the classroom observation protocol referred to in regulation 7(9)(e).

- (2) The arrangements for classroom observation recorded in the reviewee’s statement shall—
 - (a) specify the primary purpose of each observation to be undertaken; and
 - (b) subject to paragraph (3), specify any particular aspects of the reviewee’s teaching performance that will be assessed during each observation.
- (3) Nothing in paragraph (2)(b) shall prevent any other aspect of the reviewee’s teaching performance observed during any classroom observation arranged for the purposes of these Regulations from being assessed and taken into account when the teacher’s performance is reviewed in accordance with regulation 18.
- (4) Subject to paragraph (5), the total period of classroom observation arranged for any teacher under this Part shall not exceed 3 hours per cycle and shall be determined having regard to the individual circumstances of the teacher.
- (5) Where evidence emerges which gives rise to concern about the reviewee’s teaching performance, classroom observations may be arranged in addition to those referred to in paragraph (4).
- (6) Where it is considered appropriate to arrange additional classroom observations pursuant to paragraph (5) the reviewer shall ensure that a revision meeting is held and that details of any such observation are inserted into an addendum to the statement pursuant to regulation 16.
- (7) Where a teacher’s performance in the classroom is observed for the purposes of these Regulations, the reviewer shall ensure that the teacher receives a written report on his findings within 5 days of the observation, to which he may add his comments.
- (8) Classroom observation must be conducted by a qualified teacher.

Review of teacher’s performance

18.—(1) At or near the end of each cycle the reviewer or, in the case where the reviewee is the head teacher, all the reviewers and the external adviser or school improvement partner, as the case may be, shall meet with the reviewee to—

- (a) review his performance throughout that cycle against the performance criteria specified in the statement; and
- (b) where the reviewee is eligible for pay progression under the Document, determine the recommendation on pay progression, having regard to the results of the review referred to in sub-paragraph (a).
- (2) The review meeting shall be combined with the planning meeting for the next cycle, wherever practicable.
- (3) Within 5 days of the review meeting, the reviewer shall—
 - (a) record in draft in the statement—
 - (i) the results of the review; and
 - (ii) any recommendation on pay progression; and
 - (b) pass the draft statement to the reviewee.
- (4) Within 10 days of the review meeting, the reviewer shall—
 - (a) prepare and sign a final version of the statement;
 - (b) make it available to the reviewee, who may add his comments;
 - (c) where the reviewee is a teacher and the reviewer is not the head teacher, pass the signed statement to the head teacher or, where the reviewee is the head teacher and the review is conducted by individual governors, pass the signed statement to the governing body; and
 - (d) provide a copy of the statement to the reviewee.
- (5) Subject to the outcome of any appeal, the contents of the statement shall be deemed to reflect the results of the review meeting.
- (6) The time limit specified in paragraphs (3) and (4) may be extended if the reviewer or the reviewee is absent from work during those times.
- (7) The results of the review and any pay recommendation shall be recorded in the statement by 31st October or, where the reviewee is the head teacher, 31st December, following completion of the cycle to which it relates.

Appeals

19. The reviewee may appeal against any of the entries made by the reviewer in his statement, following receipt of a copy of it pursuant to regulations 14(2)(d), 15(5)(e), 16(2)(d) and 18(4)(d).(a)

Use and retention of statements

20. —(1) The head teacher or, in the case where the reviewee is the head teacher, the governing body shall retain the reviewee's statement for a minimum period of 6 years from the date on which the cycle to which it relates ends.

- (2) Where the reviewee is a teacher other than a head teacher, the governing body shall have regard to the results of the review recorded in the statement pursuant to regulation 18 when exercising any discretion in relation to his pay.
- (3) The governing body shall be provided with access to the reviewee's statement for the purposes of paragraph (2), upon request.
- (4) Where the reviewee is the head teacher, the governing body or, in the case where the school does not have a delegated budget, the local education authority shall have regard to the results of the review recorded in the statement pursuant to regulation 18 when exercising any discretion in relation to his pay.
- (5) Where the school does not have a delegated budget, the local education authority shall be provided with access to the reviewee's statement for the purposes of paragraph (4), upon request.
- (6) The reviewee's line manager or, where he has more than one, each of his line managers shall be provided with access to the reviewee's plan recorded in the statement, upon request, where this is necessary to enable him to discharge his line management responsibilities.

- (7) Where a reviewee pursues an appeal in relation to the contents of his statement the head teacher or, where the reviewee is the head teacher, the governing body shall provide anyone hearing that appeal with access to that statement.
- (8) Where a reviewee transfers from one school to another school part-way through his cycle, the head teacher or, where the reviewee is the head teacher, the governing body of the school shall transfer the reviewee's statement for that cycle, together with any evidence gathered concerning his performance during that cycle, to the head teacher or governing body of the new school, as the case may be, upon receipt of a written request from the reviewee.
- (9) Where a reviewee employed by an authority in a school or a governing body of a school becomes an unattached teacher part-way through his cycle, the head teacher or, where the reviewee was the head teacher, the governing body shall transfer the reviewee's statement for that cycle, together with any evidence gathered concerning his performance during that cycle, to the new authority, upon receipt of a written request from the reviewee.
- (10) Where a reviewee employed as an unattached teacher becomes employed as a teacher by an authority in a school or by a governing body of a school part-way through his cycle, the authority shall transfer the reviewee's statement for that cycle, together with any evidence gathered concerning his performance during that cycle, to the head teacher or, in the case where the unattached teacher is to become the head teacher of the school, the governing body of the school, upon receipt of a written request from the reviewee.

Head teacher's report

21. —(1) The head teacher shall provide the governing body with an annual written report about—

- (a) the operation of the performance management policy;
 - (b) the effectiveness of the school's performance management procedures; and
 - (c) the teachers' training and development needs.
- (2) The head teacher's report shall not contain any information which would enable any teacher at the school to be identified.

PART 3

Provisions Applying to Unattached Teachers

Application of Part 3

22. Part 3 applies to the performance management and review of any unattached teacher.

Performance management policy

23. —(1) The authority shall establish a written policy ("the performance management policy") setting out how the performance of their unattached teachers is to be managed and reviewed.

- (2) The authority shall review the performance management policy every school year.
- (3) Following such review, the authority shall, if they see fit, revise the performance management policy.
- (4) Before establishing or revising the performance management policy, the authority shall—
 - (a) consult all their unattached teachers; and
 - (b) seek to agree the policy or any revision to it with the recognised trade unions, having regard to the results of the consultation of all unattached teachers.
- (5) The authority shall implement the performance management policy.
- (6) The performance management policy shall—
 - (a) state what results the policy is intended to achieve and how these will be measured;
 - (b) show how the authority will seek to achieve consistency of treatment and fairness between those teachers with similar experience or levels of responsibility;

- (c) set out the timing of the review cycle;
- (d) include a classroom observation protocol;
- (e) provide for performance management training to be made available as the need arises;
- (f) state the arrangements for monitoring and evaluating the policy; and
- (g) specify any ancillary or supplementary procedures necessary for the operation of performance management of unattached teachers in accordance with these Regulations.

Duty to ensure that teachers' performance is managed and reviewed

24. —(1) The authority shall ensure that the performance of unattached teachers is managed and reviewed in accordance with the performance management policy and this Part.

- (2) Where an unattached teacher is employed by more than one authority, each authority shall comply with this regulation in relation to that teacher.

Appointment of reviewers for teachers

25. —(1) Subject to the following paragraphs of this regulation, the authority shall be the reviewer for every unattached teacher.

- (2) The authority may delegate the duties imposed upon the reviewer, in their entirety, to the teacher's line manager.
- (3) Where the teacher has more than one line manager, the authority may delegate the reviewer's duties, in their entirety, to the line manager whom they consider would be best placed to manage and review the teacher's performance.
- (4) Where it becomes apparent that the person to whom the authority have delegated the reviewer's duties will be absent for the majority of the cycle, the authority may perform those duties themselves or delegate those duties, in their entirety, to another person for the duration of that absence.
- (5) Where a teacher is of the opinion that the person to whom the authority have delegated the reviewer's duties is unsuitable, for professional reasons, he may submit a written request to the authority for that reviewer to be replaced, stating those reasons.
- (6) Where the authority are persuaded that the person to whom they have delegated the reviewer's duties is unsuitable, they may perform those duties themselves or delegate them, in their entirety, to another person.
- (7) Where the authority are not persuaded that the person to whom they have delegated the reviewer's duties is unsuitable, they shall—
 - (a) notify the teacher in writing of their decision, stating their reasons; and
 - (b) upon request, attach the teacher's request and the notification of their rejection of that request to the statement for that cycle.
- (8) A reviewee may request that a person to whom the authority have delegated the reviewer's duties be replaced once in any cycle.
- (9) Where the authority decide at any time that a person to whom they have delegated the reviewer's duties is no longer suitable for professional reasons, or is no longer able to carry out those duties for any reason, they may perform those duties themselves or delegate them, in their entirety, to another person.
- (10) Where, pursuant to this regulation, the authority delegates the reviewer's duties to a person who is not the teacher's line manager, the person to whom they delegate those duties must have an equivalent or higher status in the authority's staffing structure than the teacher's line manager.

Performance management and review cycle

26. —(1) Subject to the following paragraphs of this regulation, the performance of every unattached teacher shall be managed and reviewed on an annual basis ("the performance management and review cycle").

- (2) The authority shall determine the timing of the performance management and review cycle for their unattached teachers.

- (3) Where an unattached teacher is employed on a fixed term contract of less than one year, his performance shall be managed throughout the life of the contract and reviewed at the end of the contract.
- (4) Where a teacher is employed by an authority part-way through a cycle, the authority shall determine the length of the first cycle for that teacher.
- (5) Where a teacher transfers to a new post within the authority, whether on a temporary or permanent basis, part-way through his cycle, the authority shall determine whether the cycle shall begin again and, if so, whether to change the reviewer.
- (6) A change of reviewer shall not cause the reviewee's cycle to begin again.

Planning meetings

27. —(1) At the beginning of each cycle, the reviewer shall arrange a meeting with the reviewee ("the planning meeting") to consider and determine—

- (a) the reviewee's objectives;
 - (b) the arrangements for observing the reviewee's performance in the classroom, where appropriate;
 - (c) any other evidence which will be taken into account in judging the reviewee's performance;
 - (d) the performance criteria;
 - (e) the support that will be provided to the reviewee to help him to meet the performance criteria;
 - (f) timescales for the achievement of objectives and within which support will be provided, where these differ from the length of the cycle of the reviewee; and
 - (g) the reviewee's training and development needs and the actions which will be taken to address them.
- (2) The matters referred to in paragraph (1) shall be determined having regard to—
- (a) the reviewee's job description;
 - (b) any relevant pay progression criteria;
 - (c) any relevant objectives which the authority may have for unattached teachers generally or any relevant whole-school or team objectives specified in the School Improvement Plan for any school in which the teacher will be working;
 - (d) what can be reasonably expected of any teacher in that position given the desirability of the reviewee being able to achieve a satisfactory balance between the time required to discharge his professional duties and the time required to pursue his personal interests outside work;
 - (e) the reviewee's professional aspirations; and
 - (f) the relevant professional standards.
- (3) The reviewee's objectives shall be such that, if they are achieved, they will contribute to improving the progress of the pupils he teaches.
- (4) Only persons who have a direct professional knowledge of the reviewee may provide evidence for the purposes of paragraph (1)(c).
- (5) Where a joint determination cannot be made in relation to any of the matters referred to in paragraph (1), the reviewer shall make the determination.

Recording of plans

28. —(1) Within 5 days of the planning meeting, the reviewer shall—

- (a) prepare a planning and review statement in respect of the reviewee, in which he shall record the plan for managing and reviewing the reviewee's performance, comprising the matters referred to in regulation

27(1)(a) to (f) and, in a separate annex to the statement, (“the Training and Development Annex”) the matters referred to in regulation 27(1)(g); and

- (b) pass the draft statement to the reviewee, who may add his comments.
- (2) Within 10 days of the planning meeting—
 - (a) the reviewer shall prepare and sign a final version of the plan in the statement;
 - (b) make the statement available to the reviewee, who may add his comments;
 - (c) where the reviewer is not the authority, pass the signed statement to the authority;
 - (d) provide a copy of the statement to the reviewee; and
 - (e) provide a copy of the Training and Development Annex to the person responsible for planning the training and development of that teacher.
- (3) Subject to the outcome of any appeal, the contents of the statement shall be deemed to reflect the results of the planning meeting.
- (4) The time limit specified in paragraphs (1) and (2) may be extended if the reviewer or the reviewee is absent from work during those times.
- (5) The plan shall be recorded in the statement by 31st October following completion of the previous cycle.

Moderation of plans

29. —(1) Where the authority delegates the reviewer’s duties to another person, they may review the contents of the plan recorded in the statement within 10 days of it being passed to them pursuant to regulation 28(2)(c).

- (2) Where, pursuant to paragraph (1), the authority are of the opinion that any such plan—
 - (a) is inconsistent with the plans recorded in the statements of other teachers of similar experience or who have similar responsibilities employed by that authority; or
 - (b) does not comply with any relevant requirement in these Regulations,

they shall instruct the reviewer to prepare a new plan and statement.

- (3) Within 10 days of receiving an instruction pursuant to paragraph (2), the reviewer shall—
 - (a) consult the reviewee;
 - (b) prepare a new plan, record it in a new statement and sign the new statement;
 - (c) make it available to the reviewee, who may add his comments;
 - (d) pass the signed statement to the authority;
 - (e) provide a copy of the statement to the reviewee; and
 - (f) provide a copy of the Training and Development Annex to the person responsible for planning the training and development of teachers.
- (4) The time limit specified in paragraph (3) may be extended if the reviewer or reviewee is absent from work during that time.

Revision of plans

30. —(1) Where, during the course of any cycle—

- (a) the reviewee’s circumstances or responsibilities change;
- (b) evidence emerges which gives rise to concern about the reviewee’s performance but which does not justify the application of capability procedures; or

- (c) the reviewee is absent for such a period of time that some of the entries in the plan recorded in the statement are no longer appropriate,

the reviewer or the reviewee may request a meeting (a “revision meeting”) and that meeting shall be held within 10 days.

- (2) Within 10 days of the revision meeting, the reviewer shall—
 - (a) record any changes in the plan agreed at the meeting in the form of an addendum to the original statement or, where there is no agreement, any changes he thinks ought to be made to the plan and sign the addendum;
 - (b) make the revised statement available to the reviewee, who may add his comments to the addendum;
 - (c) where the reviewer is not the authority, pass the signed revised statement to the authority;
 - (d) provide a copy of the revised statement to the reviewee; and
 - (e) where the addendum relates to the training and development of the reviewee, provide a copy of the addendum to the person responsible for planning the training and development of that teacher.
- (3) Subject to the outcome of any appeal, the contents of the addendum shall be deemed to reflect the results of the revision meeting.
- (4) The time limit specified in paragraphs (1) and (2) may be extended if the reviewer or reviewee is absent from work during that time.
- (5) The statement shall not be revised unless a revision meeting has been held pursuant to paragraph (1).

Classroom observation

31.—(1) Classroom observation shall be conducted in accordance with the classroom observation protocol referred to in regulation 23(6)(d).

- (2) The arrangements for classroom observation recorded in the reviewee’s statement shall—
 - (a) specify the primary purpose of each observation to be undertaken; and
 - (b) subject to paragraph (3), specify any particular aspects of the reviewee’s teaching that will be assessed during each observation.
- (3) Nothing in paragraph (2)(b) shall prevent any other aspect of the reviewee’s teaching performance observed during any classroom observation arranged for the purposes of these Regulations from being assessed and taken into account when the teacher’s performance is reviewed in accordance with regulation 32.
- (4) Subject to paragraph (5), the total period of classroom observation arranged for any teacher under this Part shall not exceed 3 hours per cycle and shall be determined having regard to the individual circumstances of the teacher.
- (5) Where evidence emerges which gives rise to concern about the reviewee’s teaching performance, classroom observations may be arranged in addition to those referred to in paragraph (4).
- (6) Where it is considered appropriate to arrange additional classroom observations pursuant to paragraph (5), the reviewer shall ensure that a revision meeting is held and that details of any such observation are inserted into an addendum to the statement pursuant to regulation 30.
- (7) Where a teacher’s performance in the classroom is observed for the purposes of these Regulations, the reviewer shall ensure that the teacher receives a written report on his findings within 5 days of the observation, to which he may add his comments.
- (8) Classroom observation must be conducted by a qualified teacher.

Review of teacher's performance

32. —(1) At or near the end of each cycle, the reviewer shall arrange a meeting with the reviewee (“a review meeting”) to—

- (a) review his performance throughout that cycle against the performance criteria specified in the statement; and
 - (b) where the reviewee is eligible for pay progression under the Document, determine the recommendation on pay progression, having regard to the results of the review referred to in sub-paragraph (a).
- (2) The review meeting shall be combined with the planning meeting for the next cycle, wherever practicable.
- (3) Within 5 days of the review meeting, the reviewer shall—
- (a) record in draft in the statement—
 - (i) the results of the review; and
 - (ii) any recommendation on pay progression; and
 - (b) pass the draft statement to the reviewee.
- (4) Within 10 days of the review meeting, the reviewer shall—
- (a) prepare and sign a final version of the statement;
 - (b) make it available to the reviewee, who may add his comments;
 - (c) where the reviewer is not the authority, pass the signed statement to the authority; and
 - (d) provide a copy of the statement to the reviewee.
- (5) Subject to the outcome of any appeal, the contents of the statement shall be deemed to reflect the results of the review meeting.
- (6) The time limit specified in paragraphs (3) and (4) may be extended if the reviewer or the reviewee is absent from work during those times.
- (7) The results of the review and any pay recommendation shall be recorded in the statement by 31st October following completion of the cycle to which it relates.

Appeals

33. The reviewee may appeal against any of the entries made by the reviewer in his statement, following receipt of a copy of it pursuant to regulations 28(2)(d), 29(3)(e), 30(2)(d) and 32(4)(d).

Use and retention of statements

34. —(1) The authority shall retain the reviewee's statement for a minimum period of 6 years from the date on which the cycle to which it relates ends.

- (2) The authority shall have regard to the results of the review recorded in the reviewee's statement pursuant to regulation 32 when exercising any discretion in relation to his pay.
- (3) The reviewee's line manager or, where he has more than one, each of his line managers shall be provided with access to the reviewee's plan recorded in the statement, upon request, where this is necessary to enable him to discharge his line management responsibilities.
- (4) Where a reviewee pursues an appeal in relation to the contents of his statement, the authority shall provide anyone hearing that appeal with access to that statement.
- (5) Where a reviewee transfers from one authority to another authority part-way through his cycle, the authority shall transfer the reviewee's statement for that cycle, together with any evidence gathered concerning his performance during that cycle, to the new authority, upon receipt of a written request from the reviewee.

- (6) Where a reviewee becomes employed by another authority in a school or the governing body of a school part-way through his cycle, the authority shall transfer the reviewee's statement for that cycle, together with any evidence gathered concerning his performance during that cycle, to the new authority or governing body, as the case may be, upon receipt of a written request from the reviewee.
- (7) Where a reviewee employed by an authority in a school or the governing body of a school becomes an unattached teacher part-way through his cycle, the authority or governing body, as the case may be, shall transfer the reviewee's statement for that cycle, together with any evidence gathered concerning his performance during that cycle, to the new authority, upon receipt of a written request from the reviewee.

Parmjit Dhandra
Parliamentary Under Secretary of State Department for Education and Skills

4th October 2006

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Education (School Teacher Appraisal) (England) Regulations 2001.

They apply to teachers whose pay and conditions are determined by order of the Secretary of State under section 122 of the Act, who are employed for one term or more, other than those who are undergoing an induction period or who are the subject of capability procedures.

The regulations in Part 2 provide for the management and review of the performance of teachers employed at schools by governing bodies or local education authorities and the regulations in Part 3 provide for the management and review of the performance of teachers employed by local education authorities who are not attached to any particular school or are employed otherwise than at a school or are employed at pupil referral units, including teachers in charge of such units ("unattached teachers").

The principal provisions of these Regulations—

- (a) require governing bodies in the case of teachers employed at schools and local education authorities ("authorities") in the case of unattached teachers to establish and implement a performance management policy for their teachers;
- (b) provide for the appointment of reviewers and specify the procedure they must follow when preparing and revising teachers' plans and reviewing their performance in the light of those plans in the teachers' planning and review statements;
- (c) allow head teachers and authorities to delegate their reviewer's duties, in their entirety, to the teacher's line manager and, where they do this, enable head teachers and authorities to moderate the plans drawn up by line managers;
- (d) provide that teachers may appeal against any of the entries recorded in their statements; and
- (e) allow governing bodies and authorities to have regard to the results of their teachers' reviews when exercising any discretion in relation to their pay.

Notes:

- (1) 2002 c.32.back
- (2) S.I. 2003/1963.back
- (3) 1998 c.31.back
- (4) S.I. No. 2855/2001.back
- (5) S.I. 2000/2122.back
- (6) S.I. 2001/2897.back

(a) Amended by Correction Slip. Page 10, regulation 19, line two: "...pursuant to regulations 14(2)(e), 15(3)(e), 16(2)(d) and 18(4)(e)." should read, "...pursuant to regulations 14(2)(d), 15(5)(e), 16(2)(d) and 18(4)(d)." . back

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ANNEX 2

CONFIDENTIAL MODEL PLANNING AND REVIEW STATEMENT

Reviewee's name:

Reviewer's name:

Assessment of performance for the performance management cycle just ended and recommendation for pay progression (where reviewee is eligible):

Objectives for next cycle including any relevant whole school/year/team/faculty objectives*:

Extent, pattern and focus of planned classroom observation (where appropriate)*:

Other evidence*:

Support:

Timescales for completion:

** Performance criteria should be included for each of these.*

Signed (Reviewee):

Signed (Reviewer):

Reviewee's comments:

Date: _____

Training and development should be on a separate annex.

PERFORMANCE MANAGEMENT 'HOW TO' SHEETS

The revised performance management arrangements as set out in the Regulations, the Guidance and the model performance management policy prepared by the Rewards and Incentives Group (RIG) are helping to embed the aims of the new teacher professionalism agenda. This seeks to develop a culture of greater transparency, fairness and consistency where all teachers are supported fully throughout their careers, engaged in effective professional development and able to contribute to improving pupil outcomes.

The revised performance management arrangements will have implications for all schools and local authorities. However, the nature and extent of change required in schools will depend on the school's current performance management arrangements.

Change processes are not new to schools, as these were widely used during the implementation of the National Agreement, and they can be just as relevant in supporting the implementation of the revised performance management Regulations. Schools that are unfamiliar with the change process can find information about it at www.tda.gov.uk/remodelling

It is, in any case, essential that all teachers are consulted on their school's or local authority's performance management policy, and that schools and local authorities seek to agree the policy with unions. Governing bodies and head teachers need to use the consultation with staff on the new policy as an opportunity to communicate the purpose and benefits of the revised arrangements within the context of new professionalism and workforce remodelling.

The 'How to' sheets

The RIG 'How to' sheets are designed as prompts for schools and local authorities in their discussions about how to implement the revised performance management arrangements in their particular local contexts. For many, the sheets will provide helpful reassurance that the performance management process is in line with the revised Regulations. The 'How to' sheets may also help to identify issues for review or areas where further support is needed.

Before using any of these sheets, users should make sure that they are familiar with the revised performance management arrangements for teachers and head teachers as set out in the Regulations, the Guidance and the model performance management policy prepared by the Rewards and Incentives Group (RIG). You can also refer to these on the TDA website at www.tda.gov.uk/pm

Schools will have a major part to play in creating the conditions for individual reviewers and reviewees to work effectively in undertaking their roles and responsibilities within the performance management process. The following 'How to' sheets address issues around creating the right environment for performance management in the school:

- **How to** create the right environment for performance management as an inclusive process
- **How to** address issues of equality, fairness and diversity in the implementation of performance management
- **How to** address the effective preparation and support of reviewers
- **How to** address the link between performance management, school improvement and other school processes

These sheets will also be applicable for local authorities, which will need to undertake a similar process in respect of centrally employed teachers. Additionally, RIG has developed a specific 'How to' sheet on:

- **How to** address the revised performance management arrangements for unattached teachers

Further information on performance management is at www.tda.gov.uk/pm

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How to create the right environment for performance management as an inclusive process

Before using these sheets, please make sure that you are familiar with the revised performance management arrangements for teachers and head teachers as set out in the Regulations, the Guidance and the model performance management policy prepared by the Rewards and Incentives Group (RIG). You can refer to these on the TDA website at www.tda.gov.uk/pm

References: *Regulation 21 and the Guidance sections 1.5, 1.7, 4.11 and 4.15 are especially relevant to discussions about performance management as a whole school process.*

Key points

It is vital that the development and implementation of the revised performance management arrangements are viewed as a whole school process:

- a clear sense of ownership should be promoted by engaging everyone fully in the process
- parameters should be set to ensure parity of treatment, fairness and consistency
- principles and practices of performance management should be fully integrated into whole school activities within an overarching, coherent framework.

Considerations

Schools will need to put mechanisms in place to make these aspirations a reality by making sure, for example, that:

Engagement in the process

- all staff are informed about and understand the performance management process and their role in it
- consultation with all teachers, including, for example, part-time staff, is both widespread and meaningful
- a proper rationale is provided if views which emerge during consultation are rejected
- the governing body seeks to agree a performance management policy with representatives of recognised unions in the light of the outcomes of consultation
- consultation leads within a reasonable timescale to clear decisions
- provision is in place for upward feedback and communication, with confidential channels for colleagues to use to make suggestions and raise innovative ideas

Fairness and consistency

- all reviewers are prepared and supported in carrying out reviews and classroom observation consistently and in line with the provisions of the performance management policy
- judgments are securely based and solidly rooted in evidence
- teachers who provide support are fully aware of their role
- appropriate moderation provisions have been determined
- monitoring and evaluation arrangements are clearly understood and applied consistently
- appeals provisions are clearly specified

Integration into whole school activities

- there are clear links between performance management and budget-planning processes:
 - budgets are planned on the assumption that all teachers will meet their performance criteria and any relevant pay progression criteria
 - the school budget-setting process is informed by individual training and development needs identified in the performance management planning meeting
- objectives reflect the school improvement plan
- the school's continuing professional development (CPD) plan is not static and can take account of individual needs that emerge from the performance management process
- evidence collected from observation is used appropriately to inform other whole school processes
- there are clear links between school self-evaluation, performance management and quality assurance processes.

Further information on performance management at www.tda.gov.uk/pm

How to address issues of equality, fairness and diversity in the implementation of performance management

Before using these sheets, please make sure that you are familiar with the revised performance management arrangements for teachers and head teachers as set out in the Regulations, the Guidance and the model performance management policy prepared by the Rewards and Incentives Group (RIG). You can refer to these on the TDA website at www.tda.gov.uk/pm

References: *Regulation 7.9 and the Guidance sections 1.5, 4.2, 4.3, 4.4, 4.6, 4.15, 5.22, 5.27, 5.34 and 6.13 refer to equal opportunities and fairness in the performance management process.*

Key points

Schools have a duty not to discriminate on grounds of age, sex, sexual orientation, religion or belief, race, disability, part-time contracts and trade union membership. The provisions of the legislation tackling sex, disability and racial discrimination mean that schools must also demonstrate how they promote equality of opportunity. Every school will already have an equal opportunities policy which should reflect this duty. Schools will also want to make sure that performance management operates in a consistent manner, while recognising and taking account of the needs and circumstances of each individual.

Schools need to implement the revised performance management arrangements in a way that:

- takes full account of equal opportunities considerations in the context of the school and fully addresses the equalities duties
- ensures that the impact and outcomes are appropriately monitored and reported
- contributes to the school's overall review of its equal opportunities responsibilities
- recognises and takes account of the needs of each individual.

Considerations

Schools will need to make sure, for example, that:

Taking account of equal opportunities considerations

- the scope of the school's equal opportunities policy is agreed in relation to staff employment, including how the equalities strands relating to age, sex, sexual orientation, race, religion or belief, disability and trade union membership will be addressed
- staff are consulted on the arrangements for ensuring equal opportunities, fairness and consistency in performance management, and any changes that might be needed to the equal opportunities policy, and agreement is sought with the trade unions
- the provisions of the school's equal opportunities policy are reviewed to make sure that it covers all areas of unlawful discrimination as set out in the legislation
- the data which the school currently collects or has access to relating to equal opportunities for its staff is reviewed to support the operation of the school's performance management policy, to avoid duplicating data collection arrangements and to ensure fitness for purpose
- the equal opportunities policy and performance management policy are communicated to all staff
- all staff and governors are aware of the benefits and implications of equal opportunities for their roles as reviewers and reviewees

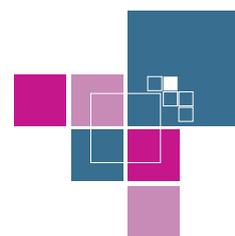
Monitoring, reporting and review

- the critical stages in the performance management process are monitored, including:
 - moderation of planning statements, including objectives and performance criteria
 - performance reviews
 - pay recommendations
 - appeals
- the school's information management system is reviewed to consider how it can help to generate equal opportunities monitoring reports
- practical arrangements for collecting, analysing and storing data are reviewed to make sure that equal opportunities data is used sensitively and that confidentiality is assured
- all staff are advised about the purpose of data collection, how data will be used and how confidentiality with regard to personal information will be safeguarded
- a format is identified for regular reporting on the equal opportunities impact of the school's performance management policy, without identifying individuals or compromising the principle of confidentiality
- responsibility is assigned for analysing the data and arrangements put in place to support this process
- the annual review of the school's performance management arrangements will contribute to the school's review of its duties on equal opportunities

Taking account of the needs of each individual

- a consistent approach is applied to the appointment of reviewers
- responsibility for the conduct of reviews is distributed equitably across reviewers
- reviewees are fully aware of how the performance management process will affect them and of their entitlements during the process
- the timing within directed time of planning and review meetings is discussed with the reviewee as far in advance as possible
- the specific needs and circumstances of individuals are taken into account when agreeing objectives, performance criteria, and arrangements for classroom observation, including the need for reasonable adjustments on grounds of disability, part-time contracts, maternity and long-term absence
- reviewees are encouraged to notify reviewers as soon as possible of any factors that might impact on their performance and which should be taken into account during the planning and review process (e.g. maternity).

Further information on performance management is at www.tda.gov.uk/pm



How to address the effective preparation and support of reviewers

Before using these sheets, please make sure that you are familiar with the revised performance management arrangements for teachers and head teachers as set out in the Regulations, the Guidance and the model performance management policy prepared by the Rewards and Incentives Group (RIG). You can refer to these on the TDA website at www.tda.gov.uk/pm. This is especially important in relation to the preparation and support of reviewers, as these colleagues have responsibility throughout performance management for key processes and actions.

References: *Regulations 10 and 11, and the Guidance sections 4.6 and 4.10 - 4.14 are especially relevant to discussions about the appointment of reviewers.*

Key points

The effective preparation and support of reviewers is central to realising the benefits of the revised performance management arrangements, as reviewers are responsible for making sure that key elements of the process are undertaken fairly and consistently. These include setting objectives, agreeing performance criteria and using them to assess progress, determining the reviewee's support, training and development needs and how these will be met and, where a reviewee is eligible, making a pay recommendation.

Schools therefore will need to make sure that reviewers have the specific knowledge, skills and understanding they need to carry out their responsibilities effectively. They will also need to consider the overall burden on each reviewer in terms of the number of reviewees for whom they are responsible, and how many reviews an individual reviewer can undertake effectively.

Considerations

Schools will need to make sure, for example, that:

- all those acting as reviewers in the school:
 - understand the school's policies and procedures, and how performance management fits into the wider context of teachers' professional development
 - have copies of all the relevant documentation, including:
 - the reviewee's job description
 - any relevant pay progression criteria
 - any relevant whole school or team objectives as specified in the school improvement plan
 - the relevant professional standards
 - understand the impact and implications of equal opportunities on the performance management process
 - are confident in evaluating evidence, including through classroom observation
 - have access to any statistical data that both reviewer and reviewee consider essential
 - are able to provide constructive feedback and engage in positive dialogue with the reviewee
 - are aware of the resources available to support teachers' development both within and beyond the school.
- There are opportunities for reviewers, during directed time, to share knowledge, learn from each other and align practice
- Arrangements are in place to make use of the expertise of current reviewers to prepare and support those taking on this role in future.

Further information on performance management is at www.tda.gov.uk/pm

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How to address the link between performance management, school improvement and other school processes

Before using these sheets, please make sure that you are familiar with the revised performance management arrangements for teachers and head teachers as set out in the Regulations, the Guidance and the model performance management policy prepared by the Rewards and Incentives Group (RIG). You can refer to these on the TDA website at www.tda.gov.uk/pm

References: *Regulations 7(9)(b) and 20, and the Guidance sections 1.4 – 1.7 and 5.42 – 5.44 are especially relevant.*

Key points

- Schools need to demonstrate the links between their performance management policies and school improvement, school self-evaluation and school development planning
- Different school processes should be linked together to make sure that bureaucracy and workload are kept to a minimum. Data generated through performance management (for instance, quality of teaching provision) should be used appropriately to inform other processes such as school improvement and school self-evaluation
- The school self-evaluation and development planning processes can help to influence and inform objective setting for individuals by highlighting priorities. These priorities can then be translated into continuing professional development (CPD) opportunities that develop a teacher's practice. As a result, both the individual's and the school's objectives are aligned, with a major focus on raising the standards of teaching and learning

Considerations

Schools will need to make sure, for example, that:

- performance management is seen as one continuous streamlined process that is linked with the other school processes of school improvement and school self-evaluation, all of which help the school to focus on its quality of teaching and the impact on standards – see below for an illustration of how this might work
- processes are refined to make evidence of performance fit for all school purposes, to avoid the need for additional classroom observation and reduce unnecessary workload
- policies and procedures are reviewed and updated if necessary so that they are coherent with each other – for example, the school's pay and performance management policies should be consistent
- the process by which pay determinations are made is stated clearly in the school's pay policy and, if necessary, is updated to reflect how pay recommendations are made by reviewers.

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The process

The **School Development Plan (SDP)** or equivalent document, along with the school's self-evaluation documents (usually the SEF), is a key document that informs the performance management process.

The SDP should be used:

- to align each reviewee's objectives and training and development annex with the school's priorities and plans
- with the SEF, to inform the target-setting process
- to assist in the allocation of available resources

The **school's self-evaluation (SEF)** is based on evidence collected from:

- performance management
- other school monitoring, including pupil performance data
- local authority monitoring

The **performance management planning meeting**

is used to identify a number of objectives, along with the reviewee's training and development needs, informed by, for example:

- professional and pay standards
- teacher's own developmental aspirations/needs
- the school's priorities as set out in the SDP
- available resources
- the outcomes of previous performance management cycles

The **performance management review meeting**, which will usually be combined with the planning meeting for the following cycle, will result in a review statement and, where applicable, a pay recommendation.

A **pay determination** will follow any pay recommendation, taking into account:

- the recommendation
- the school's pay policy
- the School Teachers' Pay and Conditions Document, including the relevant professional and pay standards.

Further information on performance management is at www.tda.gov.uk/pm

How to address the revised performance management arrangements for unattached teachers

Before using these sheets, please make sure that you are familiar with the revised performance management arrangements for teachers and head teachers as set out in the Regulations, the Guidance and the model performance management policy prepared by the Rewards and Incentives Group (RIG). You can refer to these on the TDA website at www.tda.gov.uk/pm

References: *Regulations Part 3 and the Guidance section 6.*

Key points

- An 'unattached teacher' is defined by the Regulations as:
 - a teacher not attached to a particular school
 - a teacher employed otherwise than at a school
 - a teacher at a pupil referral unit (including a teacher in charge of a unit)
- Local authorities are responsible for the performance management of all unattached teachers, who have the same obligations and entitlements as those employed by schools. Local authorities will need to identify their unattached teachers and make sure that they are included in performance management processes that reflect the revised arrangements, and arrangements will need to be put in place for:
 - setting objectives
 - agreeing performance criteria
 - planning and undertaking classroom observations
 - planning, undertaking and evaluating of continuing professional development (CPD)
- Where a teacher works in a number of different schools/locations, they and their reviewer need to decide how the work undertaken in different locations will be used for performance management purposes

Considerations

- Local authorities will need to make sure, for example, that:
- unattached teachers are consulted on the local authority's performance management policy
 - the local authority seeks to agree the policy with the recognised unions
 - arrangements are in place to
 - assess performance
 - undertake classroom observation
 - gather evidence when teachers are working in several schools/locations
 - provision is made to provide CPD to centrally employed teachers
 - the progress of pupils at different schools can be measured and analysed to provide evidence on effectiveness of CPD.

Further information on performance management is at www.tda.gov.uk/pm

ANNEX 4

INFORMATION ON LOCAL AUTHORITY (LA) POWERS OF INTERVENTION

The **Education and Inspections Act 2006** legislates for LAs being able to intervene in maintained schools in England where they are deemed to be causing concern.

LAs have a duty to promote high standards of education in primary and secondary education (section 13A of the Education Act 1996 inserted by section 5 of the School Standards and Framework Act 1998). They should be taking radical action to tackle failure, to challenge and support their schools before OFSTED judge that a school requires special measures or significant improvement.

In summary, an LA can intervene where:

- pupils are underachieving;
- management/governance is prejudicing standards of performance; or
- the safety of pupils or staff at the school is threatened.

During the passing of the Education and Inspections Bill the NASUWT secured the intervention on the basis of school workforce issues.

Implications for performance management in schools

Under the provisions that apply in relation to the exercise of the local authority's powers of intervention, the local authority is required to drive and support improvement. In undertaking its statutory responsibilities, the LA may examine standards of teaching and learning and leadership and management at the school.

The 2006 Regulations on performance management in England and the Rewards and Incentives Group guidance make clear that additional classroom observation may be undertaken where the local authority is exercising its statutory powers of intervention.

Statutory powers are being exercised if:

- a formal warning notice has been issued to the governing body at the school in accordance with the provisions of the Act; and
- the LA acts upon the warning notice within two months of it being issued.

In these circumstances, additional classroom observation may be conducted over the three-hour limit **but** the NASUWT would expect unions to be consulted on why the particular circumstances at the school require the response of additional observation and to have the opportunity to discuss all aspects and implications of the warning notice.

Where a warning notice has not been issued or has lapsed, the local authority's presence in the school can only be in an advisory capacity and therefore would not meet the test of the exercise of its statutory powers.

The local authority's involvement would therefore be advisory and there should be no additional classroom observation or exceeding of the three-hour limit as a consequence.

ANNEX 5 NASUWT REGIONAL CENTRES

Eastern Regional Centre

(Bedfordshire, Cambridgeshire, Essex, Hertfordshire, Luton, Norfolk, Peterborough, Southend, Suffolk, Thurrock)

St James House, The Anderson Centre,
Olding Road, Bury St Edmunds
Suffolk IP33 3TA

Tel: 01284 772300 Fax: 01284 772309
E-mail: rc-eastern@mail.nasuwt.org.uk

East Midlands Regional Centre

(Derby, Derbyshire, Leicester, Leicestershire, Lincolnshire, Northamptonshire, Nottingham, Nottinghamshire, Rutland)

Colliers Way, Phoenix Park,
Nottingham NG8 6AT

Tel: 0115 976 7180 Fax: 0115 976 7189
E-mail: rc-eastmids@mail.nasuwt.org.uk

Greater London Regional Centre

(Barking & Dagenham, Barnet, Bexley, Brent, Bromley, Camden, City of London, Croydon, Ealing, Enfield, Greenwich, Hackney, Hammersmith & Fulham, Haringey, Harrow, Havering, Hillingdon, Hounslow, Islington, Kensington & Chelsea, Kingston, Lambeth, Lewisham, Merton, Newham, Redbridge, Richmond, Southwark, Sutton, Tower Hamlets, Waltham Forest, Wandsworth, Westminster)

65 St John Street, Farringdon, London EC1M 4AN
Tel: 020 7490 6130 Fax: 020 7490 6138
E-mail: rc-london@mail.nasuwt.org.uk

North East Regional Centre

(Co. Durham, Darlington, Gateshead, Hartlepool, Middlesbrough, Newcastle, North Tyneside, Northumberland, Redcar & Cleveland, South Tyneside, Stockton-on-Tees, Sunderland)

Witney Way, Boldon Colliery,
Tyne and Wear NE35 9PE
Tel: 0191 519 5300 Fax: 0191 519 5309
E-mail: rc-northeast@mail.nasuwt.org.uk

North West Regional Centre

(Blackburn with Darwen, Blackpool, Bolton, Bury, Cheshire, Cumbria, Halton, Isle of Man, Knowsley, Lancashire, Liverpool, Manchester, Oldham, Rochdale, Salford, Sefton, St. Helens & Newton, Stockport, Tameside, Trafford, Warrington, Wigan, Wirral)

North Quarry Business Village, Skull House Lane,
Appley Bridge, Lancashire WN6 9DL
Tel: 01257 256800 Fax: 01257 256809
E-mail: rc-northwest@mail.nasuwt.org.uk

South East Regional Centre

(Bracknell Forest, Brighton & Hove, Buckinghamshire, East Sussex, Guernsey, Hampshire, Isle of Wight, Jersey, Kent, Medway Towns, Milton Keynes, Oxfordshire, Portsmouth, Reading, Slough, Southampton, Surrey, West Berkshire, West Sussex, Windsor & Maidenhead, Wokingham)

Milestone House, Portsmouth Road,
Send, Surrey GU23 7JZ

Tel: 01483 226130 Fax: 01483 226139
E-mail: rc-southeast@mail.nasuwt.org.uk

South West Regional Centre

(Bath & North East Somerset, Bournemouth, Bristol, Cornwall, Devon, Dorset, Gloucestershire, Isles of Scilly, North Somerset, Plymouth, Poole, Somerset, South Gloucestershire, Swindon, Torbay, Wiltshire)

2 Marlborough Court, Manaton Close,
Mattford Business Park, Exeter EX2 8PF

Tel: 01392 822500 Fax: 01392 822509
E-mail: rc-southwest@mail.nasuwt.org.uk

West Midlands Regional Centre

(Birmingham, Coventry, Dudley, Herefordshire, Sandwell, Shropshire, Solihull, Staffordshire, Stoke-on-Trent, Telford & Wrekin, Walsall, Warwickshire, Wolverhampton, Worcestershire)

1 The Wharf, Bridge Street, Birmingham B1 2JS
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Yorkshire and Humberside Regional Centre

(Barnsley, Bradford, Calderdale, Doncaster, East Riding of Yorkshire, Kingston-upon-Hull, Kirklees, Leeds, North East Lincolnshire, North Lincolnshire, North Yorkshire, Rotherham, Sheffield, Wakefield, York)

241 Leeds Road, Rothwell,
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