

***Taking Control
of your
Performance Management***

A practical guide for teachers

Important Information

This practical guide is written in the context of the Education (School Teachers' Appraisal) (England) Regulations 2012 (the 2012 Regulations).

The guidance is fully compliant with the 2012 Regulations.

It contains provisions that are essential to protect the interests of teachers undergoing performance management.

The practical guide is designed to help teachers to understand how they can take control of their performance management to enable them to secure a successful outcome, enhance their career progression and maximise their opportunity for pay progression.

NASUWT members are currently covered by national action instructions which include instructions relating to performance management. These provide added protection and support for members.

Go to www.nasuwt.org.uk/IndustrialAction

Terminology

Some schools refer to '*teacher appraisal*', others refer to '*performance management*'. Both terms refer to the same process.

Throughout this guide, for ease of reference, *performance management* will be used.

Those carrying out the performance management of teachers are referred to in this guide as '*reviewers*'.

Those undergoing performance management are referred to in this guide as '*reviewees*'.

**This practical guide is for NASUWT members only.
It should not be passed to or copied for non-members.**

Any teachers who join the NASUWT will be provided with their own personal copy of this practical guide.

This practical guide is available on the NASUWT website at **www.nasuwt.org.uk/PerformanceManagement** in downloadable form.

Free hard copies are also available from the NASUWT.

**Call 0121 453 6150 or
e-mail despatch@mail.nasuwt.org.uk.**

This practical guide applies to teachers in England only.

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Background and context

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

The current regulations governing performance management are the 2012 Regulations. A copy of these can be found in Annex 1.

Application of the 2012 Regulations

The 2012 Regulations 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; and
- teachers and headteachers employed centrally by the local authority under the terms of the School Teachers' Pay and Conditions Document (STPCD), including those in pupil referral units (PRUs), nurseries, local authority support services, peripatetic teachers, home tutors and others employed by the local authority but not allocated to an individual school.

The 2012 Regulations do not apply to:

- any newly qualified teacher who is undergoing, or has not completed satisfactorily, their induction year;
- any teacher or headteacher while they are the subject of a formal capability procedure; or
- teachers and headteachers employed in academies.

Teachers in academy schools

Although the 2012 Regulations do not automatically apply in academies, academies are expected to have a performance management policy and a pay policy.

Many academies have based their performance management/appraisal policies on the 2012 Regulations and the other provisions which apply to maintained schools, including those in the STPCD.

Although written in the context of the 2012 Regulations, the information in this practical guide covers all of the provisions and processes which should be common to the conduct of performance management.

Therefore, the advice in this guide on how teachers can seek to take control of their performance management is applicable to performance management in all settings, including academies.

The aim of performance management

The NASUWT is committed to securing across all schools a process of performance management where those who manage teachers 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 provisions, including employment law, and all statutory duties that apply to all schools and local authorities.

The statutory provisions governing performance management

Performance management has a statutory basis. The statutory provisions set out what an employer must do by law.

The statutory provisions governing performance management are set out in two key documents:

- the Education (School Teachers' Appraisal) (England) Regulations 2012; and
- the School Teachers' Pay and Conditions Document (STPCD).

Annex 2 sets out the main statutory provisions from these two documents of which teachers should be aware.

The performance management policy

All schools should have a performance management policy containing a classroom observation protocol.

Governing bodies should seek to agree the policy with the NASUWT and other recognised trade unions.

Teachers should ensure they are familiar with the provisions of their school's policy.

The NASUWT performance management policy checklist, classroom observation protocol and model pay policy can be found at www.nasuw.org.uk/PayPolicy.

Key features of performance management

Process and timing

The 2012 Regulations provide for an annual performance management cycle.

This will normally be a 12-month cycle. There may be circumstances where the length of the cycle will be less, usually because a teacher is on a temporary contract of less than 12 months.

Schools should have a clear timeline for the completion of the performance management process. They may begin their annual cycle at different times of the year. Most begin in the Autumn term, usually September or October. A few begin in the Summer term, usually June or July.

Performance management planning and review should be completed for teachers by 31 October each year.

A review meeting at the end of the cycle

At the end of the cycle a review meeting is held.

The outcome of the review meeting should be recorded in a written statement, appraisal report, which records:

- an assessment of the objectives set at the start of the cycle against the success criteria also set at the start of the cycle;
- an assessment against the Teachers' Standards that the reviewee is continuing to meet the Standards;
- an overall assessment of performance;
- a written recommendation on pay progression (as appropriate); and
- any comments the reviewee wishes to add.

A planning meeting at the beginning of the cycle

After the review of the previous cycle, there should be a meeting to plan for the next cycle.

The planning meeting is the most critical part of the process. This sets the parameters for a successful outcome and maximising opportunities for pay progression.

The outcome of the planning meeting should be recorded in the appraisal report and should state:

- all factors against which the teacher's performance will be reviewed at the end of the cycle;
- the reviewee's objectives for the cycle and the timescales in which they will be met;
- the success criteria against which the objectives will be assessed at the end of the cycle;
- any support needed to enable the objectives to be met;
- arrangements for classroom observation (see below and Annex 3);
- any training and development needs; and
- any comments the reviewee wishes to add.

It should be clear at the planning meeting if, subject to a successful outcome at the review meeting at the end of the cycle, the reviewee will be eligible for pay progression.

Classroom observation

The 2012 Regulations are silent on the amount of classroom observation which should take place during the cycle. This means schools are free to set and define a limit on classroom observation.

The NASUWT national action instructions and model performance management checklist set a limit of three observations per cycle lasting for no more than three hours in total. There is no requirement to use any or all of the three hours. The amount and focus of the observation should be discussed at a planning meeting. The amount of classroom observation within the limit should be proportionate to an individual teacher's needs.

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 observations for these monitoring purposes.

NB Classroom observation by Ofsted inspectors during Section 5 or Section 8 inspections is not included in the three hours.

Oral and written feedback

It is good practice for teachers who have been observed teaching to have immediate verbal feedback followed by written feedback.


Written feedback on any observation should normally be provided within five working days of the observation.

Ofsted gradings of classroom observation

Some schools may claim that Ofsted gradings should be used to evaluate lessons. This is not correct.

Ofsted does not require individual lessons to be graded.

Ofsted has confirmed that its inspectors do not use the teaching and learning criteria set out in the



inspection framework and guidance to grade the performance of individual teachers during lesson observations. Teachers should, therefore, be confident that no matter what they may be told, even by a colleague who claims to be Ofsted trained, there is no such thing as an Ofsted grade for teachers' performance.

Lesson gradings are particularly problematic in the context of the direct link between pay progression and performance management. The use of gradings could lead, in some schools, to a simplistic, mechanistic approach being taken to pay progression in which, rather than taking a holistic approach to a teacher's performance, only those who achieve a particular level of grading are allowed to progress.

Reviewees should therefore not agree to Ofsted gradings being used at any stage in the performance management process.

Annex 3 provides guidance on classroom observations.

More detailed information on this issue can be found in the NASUWT advice booklet *Ofsted and the grading of lessons*, which can be accessed on www.nasuwt.org.uk/Inspection or ordered from the NASUWT Despatch Team on 0121 453 6150 or e-mail despatch@mail.nasuwt.org.uk.

Performance management and the link to pay

There is a direct link between performance management and pay progression in the 2012 Regulations and the STPCD.

The school's pay and performance management policies should set out clearly the criteria for teachers' eligibility for pay progression at the end of the performance management cycle.

For example, where the school's policy conforms to the NASUWT performance management checklist, then:

- teachers who are on the lower pay range should expect to progress through the lower range annually;
- teachers who are at the top of the lower pay range should expect to progress to the upper pay range; and
- teachers on the upper pay range should expect to progress through the range, to each level in the range normally every two years.

Reviewees must check the provisions of their school's policy on pay progression and contact the NASUWT if they have any concerns.

The Teachers' Standards

A copy of the Teachers' Standards can be found in Annex 4. Annex 5 contains guidance on '*How to use the Teachers' Standards*'.

The Teachers' Standards must not be used as a checklist against which the reviewee's performance is judged.

The Standards are not:

- a job description;
- a contract of employment;
- a replacement for the professional duties and responsibilities of teachers as set out in the STPCD;

- a performance management checklist; or
- career stage objectives.

The Standards cannot be used to:

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

Appointment of the reviewer

Each reviewee should be allocated a reviewer who will manage their performance management.

The reviewer for all teachers will be the headteacher unless s/he chooses to delegate the role to another person.

If the headteacher decides to delegate the role of reviewer then s/he should not opt, either for themselves or any member of the leadership group, to retain selected parts of the process (for example, pay recommendations), whilst delegating the rest of the process.

Anyone designated as a reviewer should carry out all aspects of performance management planning and review, including making any pay recommendations for eligible teachers. They may carry out classroom observation but are not required to do so.

If the headteacher chooses to delegate the role of reviewer it will normally be to the reviewee'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.

There is no provision in the 2012 Regulations for reviewees to choose their reviewer.

If circumstances arise in which, for professional reasons, a reviewee wishes to request a change of reviewer, they should make a request to the headteacher to appoint an alternative reviewer.

The request should be made in writing by the reviewee to the headteacher and the reason for making the request stated. Where the request is not accepted, reviewees should request that the reasons are explained in writing and appended to the appraisal report together with the reviewee's original request.

Right of appeal

All performance management policies should have a right of appeal against the outcome of the review of performance management.

Some policies allow an appeal against any aspect of the appraisal report.

The appeal process should be clear and comply with the ACAS Code of Practice 1.

The ACAS Code of Practice sets out minimum standards. An Employment Tribunal can draw adverse conclusions about an employer's procedures and decisions if those minimum standards are not met.

The ACAS Code of Practice states that employers should allow an employee to appeal against any formal decision made.

The grounds for appeal in the NASUWT policy are that the school has:

- a. incorrectly applied the school's pay policy;
- b. incorrectly applied any provision of the STPCD;
- c. failed to have proper regard for statutory guidance;
- d. failed to take proper account of relevant evidence;
- e. taken account of irrelevant or inaccurate evidence;
- f. been biased; or
- g. unlawfully discriminated against the teacher.

Schools must ensure that an appeals procedure is in place before any pay determination is made, otherwise they are open to legal challenge.

Other Important Issues

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, other than if the reviewee decides to use this time for their personal preparation for performance management.

Lunch breaks should not be used for performance management-related meetings.

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

The most effective arrangement is likely to be the allocation by the school of one or more of the five teacher days to conduct the planning and review meetings for performance management. The timing of these days is within the gift of the school. The advantage of using these days is that all those involved 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 meeting to be in addition to other calendared meetings the reviewee would attend during the week.

In the case of headteachers and others paid on the leadership spine, directed time is not applicable, since the STPCD provides no such time limit for these groups of teachers. However, in these circumstances, performance management activities should still be conducted on the basis of the NASUWT advice 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 will choose to use to prepare for the planning and review meeting at the beginning/end of the cycle.

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 strongly advises members not to agree to participate. Self-evaluation is not required by the 2012 Regulations. 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' interests to ensure they prepare themselves properly and fully for their planning and review meeting.

E Performance Management Systems

E Performance Management Systems, such as *Blue Sky*, have become increasingly popular in schools.

In many cases, schools claim that the E Performance Management System is simply a means of saving paper and avoiding unnecessary filing. However, some of these systems cause real concern and potentially disadvantage the teacher.

If an E Performance Management System is used then it is important to check that its use is compliant with the NASUWT performance management checklist, which can be found on www.nasuwt.org.uk/PayPolicy.

The NASUWT has identified the following concerns about some E Performance Management Systems:

- confidentiality may be compromised, as often a range of people have access to the information held on the database about the reviewee;
- teachers are required to post planning, schemes of work and pupil outcome data onto the system, adding to teachers' workload and detracting from meaningful school improvement and teacher development strategies;
- the Teachers' Standards are used in the system as a checklist against which teachers are expected to self-assess;
- the planning and review meeting is replaced by an email exchange between the reviewee and the reviewer and there is no professional discussion; and/or
- teacher workload increases because the system has not been workload impact assessed.

All of these are unacceptable and members should alert the NASUWT if the system in their school has the above features.

Members should ensure that they are fully conversant with all the information held about them on the E Performance Management System.

Job descriptions

The 2012 Regulations specify that any objectives set must relate to a teacher's contractual role and responsibilities.

Job descriptions should be used as a focus for setting objectives as part of the performance management process. All teachers should have a job description.

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 duties listed are not appropriate for every teacher and therefore 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 and, therefore, job descriptions should not contain references to voluntary or unremunerated activities;
- the provision of a job description is the responsibility of the school management. The draft content should be the subject of consultation with the teacher. 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 and if necessary take advice on it; and
- when an NASUWT member disagrees with their 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.

Managing weak performance

The performance management process may identify serious weaknesses in a teacher's performance. However, performance management should not be used as a capability procedure and should not be linked directly to capability. If serious weaknesses are revealed, a meeting with the teacher should be called to consider the evidence of serious concern. In addition, where the case for serious weaknesses is made, an appropriate period of support should be provided, at the end of which will be a further meeting to review progress. If the teacher is still experiencing difficulties then consideration may need to be given as to whether formal capability procedures should begin.

If the performance management process has identified serious weaknesses, the reviewee and their NASUWT representative should be provided with the evidence which has prompted consideration of capability procedures.

Where serious weaknesses have been identified, and/or capability procedures have been raised, members should always seek advice immediately from the NASUWT.

'Support programmes'

An increasing number of teachers are finding themselves subject to 'support programmes' which are often a euphemism for informal capability procedures. They may have been triggered for relatively insignificant reasons. Teachers may, however, have been placed in a position where they feel they cannot object.

Such programmes may influence the outcome of performance management.

Any NASUWT member who has been placed on a support programme should take immediate advice from the NASUWT.

Use and retention of appraisal reports

At the end of the cycle, a review of performance will take place and the outcome recorded in an appraisal report. The same report will contain the planning for the next cycle.

Reviewees should always receive a copy of their appraisal report even if the school uses an E performance management system.

Reviewers should not retain personal copies but pass the completed report to the headteacher.

If anyone makes a request to the headteacher for access to the appraisal report during the cycle, reviewees should be told about the request and why it has been made. Anyone who has access to the report should maintain the confidentiality of the report.

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

Equal opportunities

There is evidence that performance management systems 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 that 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 appraisal 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 training and development needs, and monitoring and review of performance.

Annex 5 contains a *'How to Sheet'* on equality issues and performance management.

Performance management consultants

There are many external organisations and private consultants seeking to sell to schools training and materials to support performance management. These are usually very expensive and often promote strategies that are mechanistic, simplistic and punitive and which should not 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 such services and strongly urges that they are not used.

Contacting the NASUWT

Concerns about the operation of performance management should be referred in the first instance to the NASUWT Representative or contact in the school.

In the absence of a workplace representative or contact, advice should be taken from the NASUWT Local Association or Regional Centre.

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

Annex 8 contains the contact details of the NASUWT Regional Centres.

Reviewing Performance at the End of the Cycle

(this should be read in the context of Section 1 of this guide)

At the end of the cycle, the reviewee and reviewer should meet to review performance during the cycle.

In most schools, the review at the end of the cycle and planning for the next cycle usually take place in the same meeting. It should be remembered, however, that these are two separate processes even though only one meeting is held.

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 planning, preparation and assessment (PPA) time must not be used for this purpose.

The outcome of the review and planning will be recorded on an appraisal report.

The contents of the appraisal report must be discussed between the reviewee and reviewer with a view to seeking to agree the contents. Reviewees should not accept an imposed appraisal report into which they have had no input.

Preparing for the Review Meeting

In order to take control of your performance management, to seek to secure a successful outcome, thorough preparation beforehand is essential.

Documentation you will need

The starting point for assembling the documentation before the review meeting is to ask your reviewer, in good time before the meeting, to provide you with the documentation to which s/he intends to refer at the meeting.

Once the documentation is provided, check if there is anything in the documentation you have not seen before or whether there are any issues in the documentation which have not previously been raised with you during the cycle.

You will need to consider whether any of the issues in the documentation merit you requesting the review meeting to be postponed while you take advice from the NASUWT.

Make sure that prior to the meeting you have copies of:

- the appraisal report containing the planning information from the start of the cycle and any revisions which may have been made in consultation with you during the cycle;
- details of any training and development needs which were identified at the start of the cycle and the support received;
- written feedback on any classroom observations;
- your job description;
- the school development plan;
- information on pupil progress in the classes you teach; and
- any evidence you have been asked to collect during the year to inform your performance management review.

Some of this may be in the documentation provided by your reviewer.

Other sources of information which may be used in your review

Information from the E Performance Management System, if your school uses one.

Any additional information from other sources of which you may be aware.

Your reviewer should have provided any and all information to which it is intended to refer, but you also need to reflect yourself on what might be used and acquire it in readiness.

Other issues to consider before the meeting

Have there been any changes during the cycle which may impact on your review?

For example, changes to:

- your reviewer;
- your objectives;
- your responsibilities; or
- any other aspect of the original planning statement; for example, was training and development agreed but not delivered.

Have there been any changes to your working environment which may impact on your review?

For example:

- high pupil turnover in your timetabled classes;
- timetable changes, including changes to the amount of time allocated to your subject area;
- absence or loss of support staff who support you and/or individual pupils;
- use of non-specialist or unqualified teachers in your department/year group;
- intervention strategies which have resulted in pupils regularly being withdrawn from your lesson; or
- classroom and/or resources changes.

Have there been any circumstances during the cycle which may have resulted in you not being in work for the whole of the cycle?

For example:

- long-term sickness absence;
- development of a disability;
- temporary contract of less than a year; or
- maternity leave.

Did anything happen during the year that could be used against you?

For example:

- have you had your objectives changed or were you working during the year to objectives which were imposed upon you and which were unachievable;
- have any issues arisen from classroom observation;
- have you completed any documentation relating to the Teachers' Standards in which you have self-evaluated your performance; or
- have you been placed in or agreed to participate in a 'support' programme.

You need to identify all of the issues which may have impacted on your performance during the cycle, positively and negatively, and have ready the points you wish to make at the review meeting about these and their impact on your performance.

Pay progression

Make sure you have checked the school's pay and performance management policies to identify whether you are eligible for pay progression and will be looking for a pay recommendation to be made by your reviewer at the end of the review meeting.

Remember, pay progression recommendations are related to your performance. If you are eligible and the review outcome merits progression, you should receive it. It is not acceptable for pay progression to be withheld on the grounds of affordability or other factors outside performance management.

Performance

Do you think that you are performing at a level below that expected by the school?

You may be of the view that you have performed well but this question is to prompt you to reflect on whether you have had any indication the school may have a different view. If you believe the school does, you need to reflect on why and be prepared to counter this.

During the cycle, were you given any general feedback that on reflection may have caused you concern?

Has any mention been made to you during the cycle about making a wider contribution to the school?

It is important to consider carefully in advance any issues, or indications of issues that may be raised in the review meeting that will not support a positive outcome, so that you can consider these in advance and prepare to challenge and rebut these.

Make sure you reflect on and list all your achievements.

It is perfectly acceptable to make notes of all the points you want to raise and to take these notes into the review meeting with you. These notes should be for your personal reference and should not be handed over to the reviewer.

You must reflect on your own performance as it is essential to have developed a confident and coherent narrative about your effectiveness as a practitioner.

In the meeting

Only you and the reviewer should be present. If there is anyone else present, you should request they leave. If this is not agreed then ask for the meeting to be adjourned to another date and time while you take advice from the NASUWT.

Start the meeting by asking your reviewer to detail all the documentation and information to which they will be referring during the review to enable you to check that you were given everything before the meeting.

There should be no surprises at the meeting, for example:

- a document produced by your reviewer which you have not previously seen; or
- negative information raised that has not been shared with you before.

Be prepared at any stage, if anything of this sort occurs, to ask for the adjournment of the meeting to another date and time to enable you to take advice.

Adopt a positive and confident approach – you are a highly qualified professional and should expect to be treated as such.

Do not focus on or volunteer any problems or perceptions of your shortcomings.

Focus on your strengths and achievements. This is no time for false modesty!

If you are well prepared you will be in a stronger position to rebut any negative issues that might be raised.

Remember that this should be a professional dialogue, not something that is 'done to you'.

The Appraisal Report

This is normally drafted by the reviewer as the review meeting progresses.

You should check throughout the meeting what is being recorded.

You should ensure that the appraisal report has the following recorded:

- the written assessment of your performance against the Teachers' Standards;
- the written assessment of your performance against the objectives based on the success criteria set at the start of the cycle;
- an overall assessment of your performance; and
- if you are eligible for pay progression, a written recommendation.

You must be given the opportunity to record on the appraisal report any comments, positive or negative. Take your time and record all the comments you wish to make.

Even if you have recorded your comments, if you are not happy with any aspect of the statement make sure that this has all been recorded and do not sign the statement.

Ask for a copy of the appraisal report.

Ask for a copy of the school's appeals procedure.

If you do not agree with the outcome of your review, you should not agree to proceed with the planning for the next cycle. Appropriate planning cannot take place if there are unresolved issues from the previous cycle.

If the statement is to be drafted by the reviewer after the meeting, you need to check what notes have been taken in the meeting by the reviewer. Use the points above to check the draft when you receive it and follow all of the above advice.

If the appraisal report is to be drafted outside the meeting, you should establish before the meeting closes when you can expect to receive the draft report. Five working days would be a reasonable amount of time for it to be prepared and you should expect a similar amount of time to enable you to make amendments and add your comments.

NB Even if an E performance management system is used, reviewees should have a copy of the appraisal report.

Appeal against the outcome of the review

You should be given the opportunity to appeal against the outcome of your review. The grounds for appeal are when the school has:

- a. incorrectly applied the school's pay policy;
- b. incorrectly applied any provision of the STPCD;
- c. failed to have proper regard for statutory guidance;
- d. failed to take proper account of relevant evidence;
- e. taken account of irrelevant or inaccurate evidence;
- f. been biased; or
- g. unlawfully discriminated against the teacher.

The grounds for appeal may be triggered, for example, by:

- if you were eligible for pay progression and the decision of your reviewer was not to make a recommendation for pay progression and you believe the reviewer failed to take account of relevant evidence; or
- if you were eligible for pay progression and a recommendation was made by your reviewer that you should progress but this was rejected at a later stage by either the headteacher or the governing body and you believe that they had taken account of inaccurate or irrelevant evidence.

You will need to take advice from the NASUWT, but if you are considering an appeal, pending this advice, you may wish to submit the holding letter in Annex 7 A. This will protect your position on appeal, while allowing the NASUWT to evaluate whether you have sufficient grounds for appeal.

Ensure that you obtain a copy of the school's appeal procedure and contact your NASUWT Regional Centre. The contact details for NASUWT Regional Centres are in Annex 8.

Planning for the Performance Management Cycle

(this should be read in the context of Section 1 of this guide)

Preparing for the Planning Meeting

Good planning and preparation for the meeting will enable you to take control of the process from the outset.

The key documentation you may need to obtain prior to the meeting includes:

- your job description;
- the school development plan; and
- information on pupil progress on the classes that you teach.

Issues you need to have considered before the meeting include:

- your career aspirations;
- what your objectives might look like; and
- any training and development needs you would like to access.

About your objectives

Objectives represent a key means by which a teacher's performance is evaluated.

Objectives are the key way in which your pay, pension, career and professional aspirations can be advanced.

It is, therefore, essential that you consider carefully before the meeting the objectives you feel would be appropriate. You could draft some objectives for your own reference in the meeting. In the meeting you must avoid agreeing to objectives that will set you up to fail, as the adverse consequences can be significant.

Setting objectives

These should be set in the context of your role, responsibilities and job description.

There should be no more than three objectives per cycle. This limit allows you, your reviewer and all other colleagues involved in supporting you to focus effectively on priorities for your professional practice. You should not agree objectives that are broken down into multiple subsections.

An excessive number of objectives dilutes this focus and undermines the process.

Objectives should be:

- realistic
- clear
- concise
- achievable
- specific
- fair.

It is acceptable for whole school or departmental/year group objectives to be set. A reviewee could, for example, have a whole school objective, year group/departmental objective, and another objective. Whole school/departmental/year group objectives should be included in the three objectives, not set in addition to them.

There must be clarity in the appraisal report about what success will look like at the end of the process.

It is poor practice for the reviewer to seek to impose predetermined individual objectives. This must be resisted. Even whole school or departmental/year objectives will need to have an individual focus. Objectives must be set as a result of a professional discussion with you.

The objectives set should be ones within your control and influence. If an objective does not relate to your professional duties, your role and job description, it cannot meet its purpose, as it is outside your direct influence or control.

Inappropriate objectives

These may include, for example:

- inclusion of a target on pupil attendance – you can encourage attendance but cannot control, for example, sickness absence;
- securing particular levels of parental engagement – you can provide opportunities for parents to engage but you cannot control whether they engage;
- objectives based on data indicators of the performance of people you co-ordinate or manage – you can provide an environment that allows team members to perform to the best of their ability but you cannot control their performance; and
- objectives based on data targets for pupil progress (see below for more detail).

Timescales for completing objectives

Objectives should be designed to be completed within the annual cycle.

Think carefully about your objectives being achievable within that time.

Where you agree a shorter timescale for one or more of the objectives for completion than the whole cycle, this does not mean that a new or additional objective can be set when that objective is completed.

Some objectives may take longer than one cycle but it must be clear how much should have been achieved by the end of each cycle the objectives cover.

Workload

Objectives must not add to your workload.

They should not require the collection of portfolios of evidence. They should not require working at weekends, evenings or during the holidays.

Use of data in objective setting

It is not legitimate for teachers to be set individual objectives, including targets, based on data.

Data can be used to inform discussion about objectives and to set targets for pupils. Pupils' attainment in the assessments used to generate such data can be influenced by a range of factors outside a teacher's direct control.

NB The producers of value added systems, such as Fischer Family Trust (FFT), used by some schools, confirm that their systems do not generate hard and fast targets, merely estimates. The data they provide relates to pupils not to teachers. The NASUWT has produced detailed advice on the use of data: www.nasuwt.org.uk/PerformanceData.

For example: an objective which states that 'Over X of pupils in class Y (your class) will be assessed as achieving level Z in writing by the end of the cycle' is unacceptable.

You must seek to resist such targets and objectives.

However, an objective which states 'I will contribute to the achievement of whole school/departmental/team/class target X by (for example, adopting a particular teaching strategy, deployment of teaching assistants, adopting a new approach to the use of resources, accessing CPD)' is more acceptable.

Support to achieve objectives

Objectives must be considered in the context, environment and conditions in which a teacher works.

This may require access to advice, information, training or continuing professional development (CPD). Access to additional resources such as staffing, equipment and time may also be required.

When objectives are set which need training or other support, you should ask your reviewer to confirm that s/he has the authority to agree the appropriate support required and that a request for such support will not be regarded as professional inadequacy. This latter point is supported by the DfE.

The provision of CPD does not always have to be to support an objective. It could be an objective in itself. Professional development can include working with colleagues, participating in professional networks or research and investigation. You should not agree to access professional development and related activities in your own time.

Performance management can also be used as an opportunity to seek professional development that is neither related directly to an objective nor an objective itself.

Extra-curricular activities

It is not appropriate for objectives to relate to or include any voluntary or extra-curricular activities you may choose to undertake. You cannot be directed to undertake these activities. As they are voluntary they are not part of your role or responsibilities. The teacher's contract does not contain these in the list of duties.

Under no circumstances should you accept an objective of this nature.

Such objectives may be discriminatory, as some teachers may, for example, be unable to participate due to personal or family circumstances.

This advice does not prevent voluntary participation in these activities if you so choose.

Objectives and personal circumstances

If you work part time your objectives must take this into account. You could still be set three objectives but the time to complete them should be proportionate to your working hours. If you job share, reviewers should ensure the objectives for job-share partners are complementary.

If you have a disability or a medical need it is important, and a legal obligation on your employer, that your objectives reflect this.

Account should also be taken of whether your school knows that you are due to be absent from work due to maternity leave or some medical treatment that may require absence.

You should take all of the above issues into account when you are preparing for your planning meeting and considering the objectives you would like to seek to be set.

These factors also all underline the importance of seeking to avoid data-related targets in objectives.

In the meeting

As for the review process, only the reviewer and the reviewee should be present for the planning for the next cycle.

It is important to adopt the same approach towards planning as for the review of your performance. Adopt a positive and confident approach – you are a highly qualified professional and should expect to be treated as such.

Do not focus on or volunteer any problems or perceptions of your shortcomings.

Focus on your strengths and achievements and be prepared to assert your thoughts on how you see the plans for the next cycle and what you would like to achieve.

If you have a well prepared narrative you will be in a stronger position to resist the imposition of objectives and inappropriate targets.

Remember that this should be a professional dialogue, not something that is ‘done to you’.

The starting point for planning for the next cycle should be an assumption by the reviewer that you are meeting all the requirements of your job description, your relevant duties and the Teachers’ Standards. Confirm this with your reviewer.

There is no need for every aspect of your responsibilities to be considered in planning for the next cycle. The plans should focus on key priorities. Be prepared to state what you believe these are.

The plans should be realistic and manageable and enable you to achieve your contractual entitlement to a satisfactory work/life balance.

The plans should take into account any issues in your working environment that may impact on or limit what you will be able to achieve.

The discussions with your reviewer should cover the following areas:

- the objectives and the success criteria against which you will be assessed at the end of the cycle;
- any support which may be needed to achieve the objectives;
- classroom observation – amount, focus and timing;
- training and development;
- timescales for completion of the objectives; and
- eligibility for pay progression at the end of the cycle (as appropriate).

Make every effort to seek to agree with your reviewer the outcome which will be recorded on the appraisal report. However, this does not mean simply acquiescing to every point. Quite the contrary.

You should not be passive in the process to anything with which you are uncomfortable or that you believe to be unreasonable.

Be prepared to seek to adjourn the meeting if you feel that you are facing imposition rather than professional dialogue.

The Appraisal Report

The planning section of the appraisal report may be recorded during the meeting or it may be drafted at a later stage. However this is done, it is important that reviewees ensure that it contains the following information:

- objectives;
- success criteria for meeting the objectives;
- support for the objectives (as appropriate);
- classroom observation where appropriate, including the amount, timing and the focus of the observations;
- timescales for completion of objectives;
- training, development; and
- eligibility for pay progression at the end of the cycle (as appropriate).

You should ensure that you argue for changes to be made if the appraisal report does not reflect what you believe was agreed or what is acceptable to you.

If agreement cannot be reached then you must ensure that your concerns and disagreement are recorded in full on the appraisal report. Take time to record all the points you wish to make. Do not sign the report if you disagree with any aspect of it.

Ensure that you have a copy of the appraisal report.

Seek advice from the NASUWT if you are concerned about the plans for the next cycle. You may wish to submit the letter in Annex 7 B, pending the Union's advice. You should not simply acquiesce to plans with which you disagree as this will disadvantage you throughout the cycle and at the review at the end of the cycle.

If the appraisal report is to be drafted outside the meeting, ensure that at the end of the meeting you are clear about the timescale within which you will receive the draft appraisal report and make sure that you monitor that this occurs. Make sure you are clear about the notes the reviewer has taken in the meeting.

Five working days after the meeting is a reasonable time in which to be provided with the draft. If the reviewee or reviewer does not work or is absent during this period, then the number of days may be extended. You should be given a similar amount of time to make your amendments and add your comments.

Once the appraisal report has been finalised, and hopefully agreed, no third party should amend the report.

Monitoring Progress during the Cycle

Once the planning for the performance management cycle has taken place, monitoring of the process during the cycle is very important.

Following the planning meeting and during the cycle you should:

- receive written feedback, as it becomes available, on any classroom observations specified in the appraisal report;
- receive any data or information agreed at the planning meeting as it becomes available;
- receive any training, development or support agreed in the appraisal report;
- receive feedback from the reviewer on progress from time to time and be given the opportunity to discuss this; and
- be advised, at the time, of any concerns that may arise and have the opportunity to discuss these with the reviewer.

You should ensure you raise any concerns you have with the reviewer as they arise; for example, if the training or support agreed at the planning meeting has not been forthcoming.

You should keep a note of any concerns the reviewer raises with you or you raise with the reviewer, the date they were raised and what action, if any, was taken.

NB Be wary of 'support programmes' during the cycle (see Section 1).

Interim review meetings

There is no requirement in the 2012 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 all parties.

Such meetings are essentially unnecessary.

However, if either the reviewer or reviewee 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 and should take place within a reasonable time of the request being made.

Reviewees are advised that, if they make a request for a meeting, 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 reviewees have concerns about any meeting, contact should be made with the NASUWT for advice.

Changing the appraisal report during the cycle

There may be occasions when it becomes necessary to consider changing what has been agreed in the planning section of the appraisal report during the cycle. (Changes cannot be made at any stage, other than as the result of a successful appeal, to the review outcome of the previous cycle.)

These occasions may be, for example:

- where a reviewee's circumstances or responsibilities change;
- where a reviewee has been absent for such a period of time that some of the provisions in the appraisal report plan are no longer appropriate, e.g. on maternity leave or long-term sickness absence; or
- where a reviewee develops a disability and reasonable adjustments need to be made under the terms of the Disability Discrimination Act.

Where amendments are necessary, a revision meeting should take place and the same process followed as for the original planning meeting.

A written addition to the appraisal report should be made.

The reviewee and reviewer should seek to agree the revisions. The reviewee, as before, is entitled to be given the opportunity to add any written comments and should not be required to sign the revisions if they do not agree with them.

Amendments to an appraisal report should not be triggered simply because there is, for example, a change in headteacher, line manager or reviewer or because an objective has been completed ahead of schedule.

Changes to responsibilities or a change of post on a temporary or permanent basis may not require an amendment to the appraisal report. Whether amendments are needed will depend on the scale of the change. Each case will, therefore, need to be considered on its merits.

Concerns about performance during the cycle

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

A concern may not, for example, merit any action at all. Alternatively, the concern may trigger a meeting.

The reviewer and/or headteacher would need to provide evidence of the concerns to the reviewee and to their NASUWT representative.

Where concerns about performance are raised, reviewees should seek advice immediately from the NASUWT.

See Section 1, 'Support Programmes' and 'Managing weak performance', for more information.

ANNEX 1

Statutory Instrument 2012 No. 115

EDUCATION, ENGLAND

The Education (School Teachers' Appraisal) (England) Regulations 2012

| | |
|-------------------------------|--------------------|
| <i>Made</i> | 17th January 2012 |
| <i>Laid before Parliament</i> | 24th January 2012 |
| <i>Coming into force</i> | 1st September 2012 |

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 131(1), (2) and (3) and 210(7) of the Education Act 2002(a).

In accordance with section 131(6) of that Act(b), the Secretary of State has consulted with such associations of local authorities in England, local authorities in England, bodies representing the interests of governing bodies in England and bodies representing the interests of teachers in England as appeared to the Secretary of State to be appropriate.

Citation, commencement and application

1. — (1) These Regulations may be cited as the Education (School Teachers' Appraisal) (England) Regulations 2012 and come into force on 1st September 2012.
- (2) These Regulations apply in relation to England.
- (3) Subject to paragraph (4), these Regulations apply to any teacher employed for one school term or more.
- (4) These Regulations do not apply to—
- (a) any teacher whilst that teacher is undergoing an induction period in accordance with the Education (Induction Arrangements for School Teachers) (England) Regulations 2008(c);
- or
- (b) any teacher whilst that teacher is the subject of capability procedures.
- (5) In this regulation “capability procedures” means the procedures established by a governing body pursuant to regulation 8 of the School Staffing (England) Regulations 2009(d).

Interpretation

- 2.— (1) In these Regulations—
- “the Act” means the Education Act 2002;
- (a) 2002 c. 32; section 131(2) was amended by S.I. 2010/1158. For the meaning of “regulations”, see section 212(1) of the Education Act 2002.
- (b) Section 131(6) was amended by S.I. 2010/1080 and 2010/1158.
- (c) S.I. 2008/657, amended by S.I. 2010/1172.
- (d) S.I. 2009/2680, to which there are amendments not relevant to these Regulations.
- “appraisal period”, in relation to a teacher, means the period determined in relation to that teacher in accordance with regulation 5;
- “school” means a community, voluntary, foundation, community special or foundation special school or a maintained nursery school;
- “teacher” means a school teacher as defined in section 122 of the Act; and
- “unattached teacher” means a teacher employed by a local authority who is—
- (a) not attached to a particular school, or
- (b) employed otherwise than at a school.
- (2) For the purposes of these Regulations, a teacher is employed at a school if—
- (a) the teacher is employed by the governing body of that school, or
- (b) the teacher is employed by the local authority to work in that school.

Duty to make available to teachers a document setting out the appraisal process

- 3.— (1) The governing body of a school must adopt and make available to teachers employed at that school a document which sets out the appraisal process for such teachers.
- (2) A local authority must adopt and make available to unattached teachers employed by that authority a document which sets out the appraisal process for such teachers.

(a) 2002 c. 32; section 131(2) was amended by S.I. 2010/1158. For the meaning of “regulations”, see section 212(1) of the Education Act 2002.

(b) Section 131(6) was amended by S.I. 2010/1080 and 2010/1158.

(c) S.I. 2008/657, amended by S.I. 2010/1172.

(d) S.I. 2009/2680, to which there are amendments not relevant to these Regulations.

Appointment of external advisers in respect of head teachers

4. The governing body of a school must appoint an external adviser for the purposes of providing it with advice and support in relation to the appraisal of the head teacher.

Appraisal period

- 5.— (1) Subject to paragraphs (3) to (5), the appraisal period in relation to a teacher employed at a school is such period of twelve months as the governing body determines in respect of that teacher.
- (2) Subject to paragraphs (3) to (6) the appraisal period in relation to an unattached teacher is such period of twelve months as the local authority determines in respect of that teacher.
- (3) Where a teacher is employed on a fixed term contract of less than twelve months the appraisal period is the period of employment to which the contract relates.
- (4) Where a teacher begins employment with a relevant body, the relevant body may determine that the initial appraisal period in respect of that teacher is a period shorter or longer than twelve months, and in this paragraph “relevant body” means—
- (a) in relation to a teacher employed at a school, the governing body of that school, and
- (b) in relation to an unattached teacher, the local authority by which the unattached teacher is employed.
- (5) Where a teacher ceases employment other than at the end of the appraisal period applying in relation to that teacher the appraisal period ends with the last day of such employment.
- (6) Where an unattached teacher transfers from one post in the local authority by which the teacher is employed to another such post other than at the end of the appraisal period applying in relation to that teacher the local authority may determine that the appraisal period in progress at the time of the transfer is to be shorter or longer than twelve months.

Standards and Objectives

6. — (1) The governing body of a school must, before, or as soon as practicable after, the start of each appraisal period in relation to a head teacher—
- (a) inform the head teacher of the standards against which the head teacher’s performance in that appraisal period will be assessed; and
- (b) set objectives for the head teacher in respect of that period.
- (2) In setting objectives for the head teacher, the governing body of a school must consult the external adviser appointed under regulation 4.
- (3) The head teacher of a school must, in respect of every other teacher employed at that school, before, or as soon as practicable after, the start of each appraisal period in relation to a teacher—
- (a) inform the teacher of the standards against which the teacher’s performance in that appraisal period will be assessed; and
- (b) set objectives for the teacher in respect of that period.
- (4) The governing body of a school must exercise its functions so as to secure that the duties set out in paragraph (3) are complied with.
- (5) The objectives set under paragraph (1)(b) or (3)(b) must be such that, if they are achieved, they will contribute to—
- (a) improving the education of pupils at that school; and
- (b) the implementation of any plan of the governing body designed to improve that school’s educational provision and performance.
- (6) A local authority must, in respect of unattached teachers employed by that authority, before, or as soon as practicable after, the start of the appraisal period in relation to each such teacher—
- (a) inform the teacher of the standards against which the teacher’s performance in that appraisal period will be assessed; and
- (b) set objectives for the teacher in respect of that period.
- (7) The objectives set under paragraph (6)(b) must be such that, if they are achieved, they will contribute to improving the education of pupils in the school or other place at which the teacher is employed.
- (8) The standards referred to in paragraphs (1)(a), (3)(a) and (6)(a) in respect of a teacher are—
- (a) the set of standards contained in the document entitled “Teachers’ Standards” published by the Secretary of State in July 2011; and
- (b) any other set of standards relating to teachers’ performance published by the Secretary of State as the governing body, head teacher or local authority (as the case may be) determines as being applicable to the performance of that teacher.

Appraisal of teachers

7. — (1) The governing body of a school must appraise the performance of the head teacher in respect of each appraisal period applying in relation to that head teacher.
- (2) In appraising the performance of the head teacher, the governing body of a school must consult the external adviser appointed under regulation 4.
- (3) The head teacher of a school must appraise the performance of every other teacher employed at that school in respect of each appraisal period applying in relation to the teacher.
- (4) The governing body of a school must exercise its functions so as to secure that the duty in paragraph (3) is complied with.

- (5) A local authority must appraise the performance of each unattached teacher employed by that authority in respect of each appraisal period applying in relation to the teacher.
- (6) In making an appraisal under paragraph (1), (3) or (5) the governing body, head teacher or local authority (as the case may be) must—
- (a) assess the teacher's performance of their role and responsibilities during the appraisal period in question against—
 - (i) the standards applicable to that teacher by virtue of regulation 6; and
 - (ii) the teacher's objectives set under regulation 6;
 - (b) assess the teacher's professional development needs and identify any action that should be taken to address them; and
 - (c) where relevant under the Document, include a recommendation relating to the teacher's pay.
- (7) In paragraph (6) "the Document" means the document referred to in any order made under section 122 of the Act for the time being in force.

Appraisal report

- 8.** — (1) As soon as practicable following the end of each appraisal period applying in relation to a teacher, the governing body, head teacher or local authority (as the case may be) must provide the teacher with a written report of the teacher's appraisal in respect of that appraisal period.
- (2) A report under paragraph (1) must record the assessments mentioned in regulation 7(6)(a) and (b) and any recommendation under regulation 7(6)(c).
- (3) The governing body of a school must exercise its functions so as to secure that the duty in paragraph (1) is complied with.

Revocation and saving etc.

- 9.** — (1) Subject to paragraph (2), the Education (School Teacher Performance Management) (England) Regulations 2006(a) ("the 2006 Regulations") are revoked.
- (2) The 2006 Regulations continue to apply in relation to any cycle which is in progress at the coming into force of these Regulations.
- (3) But—
- (a) a governing body of a school may determine, in relation to any teacher employed at that school, and
 - (b) a local authority may determine, in relation to any unattached teacher it employs, that the cycle applying in respect of that teacher which is in progress at the coming into force of these Regulations comes to an end earlier than it would have done under the 2006 Regulations.
- (4) In this regulation "cycle" has the same meaning as in the 2006 Regulations.

Nick Gibb
Minister of State
Department for Education

17th January 2012

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.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Education (School Teacher Performance Management) (England) Regulations 2006. Those Regulations continue to apply in relation to performance management and review cycles under regulations 12 and 26 of the 2006 Regulations which are in progress when these Regulations come into force (although a governing body or local authority (as the case may be) may decide to curtail any performance management and review cycle in progress when these Regulations come into force) (regulation 9).

These Regulations apply to teachers whose pay and conditions are determined by an order of the Secretary of State under section 122 of the Education Act 2002 who are employed for one school term or more, other than those who are undergoing an induction period or who are the subject of capability procedures.

Regulation 3 requires governing bodies (in respect of teachers employed at a school) and local authorities (in respect of unattached teachers) to have a written document setting out the appraisal process. "Unattached teachers" are teachers employed by a local authority who are not attached to a particular school or who are employed otherwise than at a school (for example teachers employed at a pupil referral unit).

Regulation 5 establishes the appraisal period in relation to teachers to whom the Regulations apply.

(a) S.I. 2006/2661, amended by S.I. 2010/1172.

Regulation 6 requires head teachers (in respect of teachers, other than the head teacher, employed at a school), governing bodies (in respect of a head teacher employed at a school) and local authorities (in respect of unattached teachers) to set objectives for teachers and inform each teacher of the standards against which that teacher's performance is to be assessed. Such standards must be the set of standards contained in the document entitled "Teachers' Standards" published by the Secretary of State in July 2011 (which can be found at <http://www.education.gov.uk/>), and may include any other set of standards relating to teachers' performance published by the Secretary of State as the head teacher, governing body or local authority determines as being applicable to the performance of that teacher. A governing body must consult the external adviser (appointed under regulation 4) in setting objectives for a head teacher.

Regulation 7 requires the annual appraisal of the performance of teachers, which must include an assessment of the teacher's performance against the appropriate standards and that teacher's objectives, an assessment of the teacher's professional development needs and, where relevant, a recommendation on the teacher's pay. A governing body must consult the external adviser (appointed under regulation 4) in appraising a head teacher's performance.

The teacher must be given a written report recording the appraisal (regulation 8).

An impact assessment has not been produced for this instrument as no impact on business, charities and voluntary bodies is foreseen and the impact on the public sector will be minimal.

ANNEX 2

Statutory provisions governing performance management (appraisal)

The Education (School Teachers' Appraisal) (England) Regulations 2012

The 2012 Regulations state that teachers should be 'appraised against' the Teachers' Standards.

The NASUWT believes that appraisal should begin with the assumption that all teachers, unless there is evidence to the contrary, are meeting the Standards. This approach complies with the 2012 Regulations.

Other key points to remember include:

- there are only eight Standards that relate to teaching;
- additional wording/qualification/exemplification should not be included in the Standards; and
- there is no requirement for teachers to provide evidence that they have continued to meet each Standard.

Other important requirements of the 2012 Regulations:

- teachers must be given documentation setting out the appraisal process;
- in most circumstances, the appraisal cycle is 12 months; and
- objectives must relate to the contractual roles and responsibilities of teachers.

NB The Department for Education's (DfE's) model policy on appraisal also provides for:

- teachers to be provided with training and support to meet their objectives; and
- teachers to be provided with feedback on their performance throughout the year and as soon as practicable after any classroom observation.

The School Teachers' Pay and Conditions Document

The relevant body must **consider annually** whether or not to increase the salary of teachers who have completed a year of employment since the previous **annual pay determination** and, if so, to what salary within the relevant pay ranges.

The decision **whether or not to award pay progression** must be related to the teacher's performance.

A **recommendation on pay** must be made in writing as part of the teacher's appraisal report.

Pay decisions must be **clearly attributable to the performance of the teacher in question**.

Continued **good performance**, as defined by an individual school's pay policy, should give a classroom or unqualified teacher an **expectation of progression** to the top of their respective pay range.

Qualified teachers **may apply** to be paid on the upper pay range **at least once a year** in line with their school's pay policy.

An application from a qualified teacher will be successful where the relevant body is satisfied:

- that the teacher is **highly competent** in all elements of the relevant Standards; and
- that the teacher's achievements and contribution to an educational setting or settings are **substantial and sustained**.

ANNEX 3

Classroom Observation

Classroom observation is an important element of the performance management process in many schools. However, it is critical that where it is undertaken, classroom observation is used in a way that is proportionate, constructive and based on the needs of individual teachers.

This Annex sets out some of the key features of effective school-level practice on the conduct of classroom observations.

The extent of classroom observation

The NASUWT's action short of strike action instructions make clear that members are instructed not to participate in any form of management-led classroom observation in any school that refuses to operate a policy of a limit of a total of three observations for all purposes within a total time of up to three hours per year (contact with the NASUWT should be made if schools do not operate this limit).

Members should also refuse to conduct classroom observations of their colleagues or those they line manage where the school has failed to adopt the provisions of the NASUWT/NUT joint performance management checklist and joint classroom observation protocol, or where conducting the observation would breach the terms of the instruction on the limit on observation.

Further information on the action short of strike action instructions, including the NASUWT/NUT joint performance management checklist and protocol for the conduct of lesson observations, can be found at www.nasuwt.org.uk/IndustrialAction. This note should be read in conjunction with both these documents.

The Union's experience confirms that it is possible for schools to operate effective systems of appraisal while operating within this limit on classroom observation. Schools operating this limit have achieved 'good' and 'outstanding' in Ofsted inspections. However, it is important to recognise that classroom observation undertaken outside performance management also counts towards this limit. Observations within this limit therefore include observation arising from learning walks, pupil tracking/shadowing, departmental and subject reviews, pre-inspection visits, drop-ins, mock inspections and any other initiatives which involve classroom observation.

While local authorities have a right to intervene in schools causing concern, they do not have a statutory right to observe teachers. The NASUWT instruction and limit, therefore, also covers observation as a result of local authority intervention.

Classroom observation not within the limit

It should be noted that some observations do not count towards the overall limit. In particular, observations carried out by Ofsted inspectors are not covered by the instruction. Observation of teachers by trainee teachers, providing that the observation, the programme of observation and the focus of the observation have been agreed with the teachers who will be observed, are also excluded from the overall limit.

Classroom observation and schools in an Ofsted category

It is important to note that the fact that a school has been placed into an Ofsted category, such as 'inadequate' or 'requires improvement', does not justify increases in the extent of classroom observation beyond that permitted by the NASUWT's action short of strike action instructions. Simply increasing classroom observation in these circumstances is unacceptable as it is the quality and not the quantity of observation which provides the best support to teachers working in schools in Ofsted categories.

The quality of observations within the parameters of the instruction should be able to address any of the issues arising concerning teaching and learning and therefore the instruction must continue to be applied in these circumstances.

Peer observations

Some schools have a process of voluntary peer observation for professional development purposes. Where a teacher believes that they would benefit from being observed by a colleague of their choice, or from observing a colleague of their choice, and the outcome of the observation is simply a matter of professional discussion between two colleagues, this would not be covered by the instruction. However, if the school has imposed the system of peer observation or has formalised the process and the observations are recorded, logged and/or fed into the performance management monitoring process, then these would be viewed as formal observations and would be covered by the limit and the instruction.

Newly Qualified Teachers

This instruction on the limit of classroom observation does not automatically apply to newly qualified teachers in their induction year. However, they should not be subjected to unlimited and excessive observation.

A benchmark for what would be deemed reasonable is an observation in the first four weeks in post and then one observation per half term in schools operating a three-term year. This means a total of six times during the first year for those who are working full time and pro rata for those working part time.

Any newly qualified teacher who is receiving more observation than this should contact the NASUWT immediately for advice.

Classroom observation and performance management

The school's performance management policy should contain a classroom observation protocol which sets out how classroom observation will be conducted.

It is essential to note that 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 should 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, and there is no need for any or all of the three hours to be used. The amount of lesson observation should be proportionate to the needs of the individual.

The focus of the classroom observation should relate to the objectives established during the planning meeting. This allows for sufficient attention to be given to an identified area of practice and thereby ensures that classroom observation works to support the professional development of teachers.

It is extremely poor practice for classroom observations to be conducted without a clear focus. The focus should be agreed in advance of the observation at the planning meeting following professional dialogue and discussion. The date, time and duration of the observation should also be agreed at the planning meeting.

Before any classroom observation is conducted, there should be an opportunity for the reviewer and reviewee to meet within directed time in order that the context of the lesson to be observed can be discussed.

Observation by a qualified teacher

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 timely written and oral feedback.

In line with the NASUWT's action short of strike action instructions, members should only participate in observations conducted by a colleague with Qualified Teacher Status (QTS). The only exception to this provision may occur when a teacher is observed by an Ofsted inspector without QTS.

The conduct of the observation and post-observation feedback

The classroom observation should take place on the appointed date and time. During the observation, it is good practice for the observer to interfere as little as possible in the lesson process. By remaining in the background, the impact of the presence of an additional teacher known to the pupils can be minimised.

Where it is reasonable for the observer to take on a more active role in the observation, for example, by speaking with individual pupils or groups about their work, this should be undertaken as unobtrusively as possible. The observer should seek not to speak to or otherwise disrupt the teacher being observed.

After the observation, oral feedback should be given as soon as possible, no later than the end of the following working day. It must be given during directed time in a suitable, private environment. Time for preparation and feedback for classroom observation should be made available, in addition to contractual planning, preparation and assessment (PPA) time.

The NASUWT's classroom observation protocol and action short of strike action instructions make clear that written feedback should be provided within five working days of the observation taking place. If issues have emerged from an observation that were not part of the focus of the observation as recorded in the planning and review statement, these should also be covered in the written feedback and the appropriate action discussed with the teacher.

The instructions and protocol also confirm that the written record of feedback must include the date on which the observation took place, the lesson observed and the length of the observation. The teacher should be given the right to append written comments on the feedback document and no written notes in addition to the written feedback and teacher's comments should be kept. The reviewer will be given sufficient time within the school day to put in written form the conclusions agreed with the reviewee on the outcomes of the classroom observation. The protocol and instructions confirm that teachers will have access to all written accounts of the observation after their lessons and, if they request, copies will be provided.

Ofsted has emphasised that it does not grade teachers' performance in lessons observed during inspections. Therefore, attempts by schools to use 'Ofsted grades' to assess teachers' performance in observed lessons are inappropriate. Further information about the use of Ofsted grades can be found on the NASUWT website at www.nasuwt.org.uk/inspection.

Observations by pupils

The action short of strike action instructions make clear that members should not agree to be observed by pupils or organise any activity or co-operate with any activity which would involve pupils observing teachers or commenting on their performance. Teaching is a highly complex professional activity. It is therefore important that teachers assert their professionalism and insist that observations of their practice and any evaluation based on these observations are undertaken by those with suitable qualifications.

Observations by governors

Members should not agree to classroom observations by school governors for the reasons outlined above.

ANNEX 4



Teachers' Standards

PREAMBLE

Teachers make the education of their pupils their first concern, and are accountable for achieving the highest possible standards in work and conduct. Teachers act with honesty and integrity; have strong subject knowledge, keep their knowledge and skills as teachers up-to-date and are self-critical; forge positive professional relationships; and work with parents in the best interests of their pupils.

PART ONE: TEACHING

A teacher must:

1 Set high expectations which inspire, motivate and challenge pupils

- establish a safe and stimulating environment for pupils, rooted in mutual respect
- set goals that stretch and challenge pupils of all backgrounds, abilities and dispositions
- demonstrate consistently the positive attitudes, values and behaviour which are expected of pupils.

2 Promote good progress and outcomes by pupils

- be accountable for pupils' attainment, progress and outcomes
- be aware of pupils' capabilities and their prior knowledge, and plan teaching to build on these
- guide pupils to reflect on the progress they have made and their emerging needs
- demonstrate knowledge and understanding of how pupils learn and how this impacts on teaching
- encourage pupils to take a responsible and conscientious attitude to their own work and study.

3 Demonstrate good subject and curriculum knowledge

- have a secure knowledge of the relevant subject(s) and curriculum areas, foster and maintain pupils' interest in the subject, and address misunderstandings
- demonstrate a critical understanding of developments in the subject and curriculum areas, and promote the value of scholarship
- demonstrate an understanding of and take responsibility for promoting high standards of literacy, articulacy and the correct use of standard English, whatever the teacher's specialist subject
- if teaching early reading, demonstrate a clear understanding of systematic synthetic phonics
- if teaching early mathematics, demonstrate a clear understanding of appropriate teaching strategies.

4 Plan and teach well structured lessons

- impart knowledge and develop understanding through effective use of lesson time
- promote a love of learning and children's intellectual curiosity
- set homework and plan other out-of-class activities to consolidate and extend the knowledge and understanding pupils have acquired
- reflect systematically on the effectiveness of lessons and approaches to teaching
- contribute to the design and provision of an engaging curriculum within the relevant subject area(s).

5 Adapt teaching to respond to the strengths and needs of all pupils

- know when and how to differentiate appropriately, using approaches which enable pupils to be taught effectively
- have a secure understanding of how a range of factors can inhibit pupils' ability to learn, and how best to overcome these
- demonstrate an awareness of the physical, social and intellectual development of children, and know how to adapt teaching to support pupils' education at different stages of development
- have a clear understanding of the needs of all pupils, including those with special educational needs; those of high ability; those with English as an additional language; those with disabilities; and be able to use and evaluate distinctive teaching approaches to engage and support them.

6 Make accurate and productive use of assessment

- know and understand how to assess the relevant subject and curriculum areas, including statutory assessment requirements
- make use of formative and summative assessment to secure pupils' progress
- use relevant data to monitor progress, set targets, and plan subsequent lessons
- give pupils regular feedback, both orally and through accurate marking, and encourage pupils to respond to the feedback.

7 Manage behaviour effectively to ensure a good and safe learning environment

- have clear rules and routines for behaviour in classrooms, and take responsibility for promoting good and courteous behaviour both in classrooms and around the school, in accordance with the school's behaviour policy
- have high expectations of behaviour, and establish a framework for discipline with a range of strategies, using praise, sanctions and rewards consistently and fairly
- manage classes effectively, using approaches which are appropriate to pupils' needs in order to involve and motivate them
- maintain good relationships with pupils, exercise appropriate authority, and act decisively when necessary.

8 Fulfil wider professional responsibilities

- make a positive contribution to the wider life and ethos of the school
- develop effective professional relationships with colleagues, knowing how and when to draw on advice and specialist support
- deploy support staff effectively
- take responsibility for improving teaching through appropriate professional development, responding to advice and feedback from colleagues
- communicate effectively with parents with regard to pupils' achievements and well-being.

PART TWO: PERSONAL AND PROFESSIONAL CONDUCT

A teacher is expected to demonstrate consistently high standards of personal and professional conduct. The following statements define the behaviour and attitudes which set the required standard for conduct throughout a teacher's career.

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by:
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
 - showing tolerance of and respect for the rights of others
 - not undermining fundamental British values, including democracy, the rule of law, individual liberty and mutual respect, and tolerance of those with different faiths and beliefs
 - ensuring that personal beliefs are not expressed in ways which exploit pupils' vulnerability or might lead them to break the law.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The Teachers' Standards can be found on the GOV.UK website: <https://www.gov.uk/government/publications/teachers-standards>

ANNEX 5

'HOW TO' SHEETS

INTRODUCTION

Schools 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.

It is vital that the development and implementation of performance management is 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.

It is essential that all staff are informed about and understand the performance management process and their role in it.

Fairness and consistency

Ensure that:

- 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;
- judgements are securely based and solidly rooted in evidence;
- teachers who provide support are fully aware of their role;
- monitoring arrangements are clearly understood and applied consistently;
- appeals provisions are clearly specified.

Integration into whole school activities

Ensure that:

- there are clear links between performance management and budget-planning processes to ensure training and development needs are met and that appropriate time can be allocated to support all aspects of the process;
- objectives reflect the school improvement/development 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 classroom observation is used appropriately to inform other whole school processes to avoid the need for additional observations;
- 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 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.

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;
- processes are refined to make evidence of performance fit for all school purposes, to avoid exceeding the limit for classroom observation and to 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 should be stated clearly in the school's pay policy and reflect how pay recommendations are made by reviewers.

HOW TO:

ADDRESS ISSUES OF EQUALITY, FAIRNESS AND DIVERSITY

Key points

Schools have a legal duty not to discriminate on the grounds of age, sex, sexual orientation, religion or belief, race, disability, part-time contracts and trade union membership.

The provisions of the legislation mean that schools must also demonstrate how they promote equality of opportunity.

Every school should already have an equal opportunities policy which should reflect this duty.

Schools need 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 performance management arrangements in a way that:

- takes full account of equal opportunities considerations in the context of the school and fully addresses the employer's 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 in taking account of equal opportunities considerations:

- the scope of the school's equal opportunities policy is agreed in relation to staff employment and that it is consistent with the statutory requirements under the legislation;
- staff are consulted on the arrangements for ensuring equal opportunities, fairness and consistency in performance management and any changes that might be needed to be made to the equal opportunities policy, and agreement is sought with the NASUWT and other trade unions;
- the provisions of the school's equal opportunities policy are reviewed regularly 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, report and review

Schools will need to make sure that the critical stages in the performance management process are monitored, including that:

- the school budget-setting process is informed by individual training and development needs identified in the planning meeting, including objectives and performance success criteria;
- 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

Schools will need to make sure that:

- 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).

HOW TO:

USE THE TEACHERS' STANDARDS

Introduction

This 'How to' provides information, advice and guidance on the use of the Teachers' Standards for the purposes of the formal performance management of teachers and in the formation of judgements at school level about the quality of teaching and learning.

It describes the legal status of the Standards, their relationship with the performance management process, and features of acceptable practice with regard to their use.

This information should be read in conjunction with the NASUWT's advice and guidance for members on performance management, available from the NASUWT website at www.nasuwt.org.uk.

The Union has published separate guidance on the use of the Standards in the statutory induction of newly qualified teachers. This is also available from the NASUWT website.

The scope and applicability of the Teachers' Standards

The Teachers' Standards came into effect on 1 September 2012. They are intended to be used for a range of purposes.

These include:

- assessing the suitability of those in Initial Teacher Training (ITT) for the award of Qualified Teacher Status (QTS);
- assessment of the competence of newly qualified teachers at the end of their period of statutory induction;
- the performance management of qualified teachers in maintained settings as part of revised arrangements introduced in September 2012;
- by Ofsted when assessing the quality of teaching and learning in schools, including academies and free schools; and
- by the Teaching Agency when hearing cases of misconduct, regardless of the setting within which a teacher works.

Qualified Teacher Learning and Skills (QTLS) status and the Teachers' Standards

It is important to note that the Department for Education (DfE) has implemented changes to the statutory framework for staffing in maintained schools that permit the employment of personnel with Qualified Teacher Learning and Skills (QTLS) status as qualified teachers.

Maintained schools have been given the discretion to make use of the Teachers' Standards in the appraisal of these staff or to use any other set of professional standards they deem appropriate.

It is therefore important that effective account is taken of the Standards applied to QTLS holders in the development of school-level approaches to the use of the Teachers' Standards.

Arrangements for the use of the Teachers' Standards in schools

While all the intended uses of the Teachers' Standards are significant, this guidance is focused principally on the use of the Teachers' Standards for the purposes of performance management and in establishing common understandings at school level about expectations in respect of teaching and learning.

At the outset, however, it is important to recognise that the 2012 Regulations do not automatically apply in academies and free schools. Therefore, there is no legal obligation on these schools to make use of the Teachers' Standards in their appraisal or performance management processes. However, the use by Ofsted of the Teachers' Standards in forming judgements about the quality of teaching and the effectiveness of academies' and free schools' performance management process means that it is important that the principles of acceptable practice with regard to the application of the Standards set out in this guidance inform approaches to their implementation and use in academies and free schools.

It is imperative that all schools establish a clear, consistent and equitable protocol on the ways in which the Teachers' Standards will be interpreted and applied in practice, particularly in the context of schools' policies on performance management and in the formation of organisation-wide expectations about teaching and learning. The protocol must be developed in full consultation with the NASUWT and must be reviewed at regular intervals to ensure its continued effectiveness and appropriateness.

The nature of the Teachers' Standards, and the ways in which they might influence the work of teachers, means that their specific implications for teachers will vary according to:

- the type of setting in which teachers are deployed;
- the particular requirements of the subject areas they teach; and
- the age and developmental stage of the pupils for whom they are responsible.

It is therefore not appropriate or necessary to seek to establish precise definitions of each of the Standards. However, the NASUWT has identified a range of key principles that must be reflected in protocols on the application of the Teachers' Standards, in all settings where they are used. These principles are explained below.

Concerns about the interpretation and application of the Teachers' Standards should be referred to the NASUWT.

Principles for acceptable practice on use of the Teachers' Standards

The Teachers' Standards are organised into sections:

- Part One is comprised of eight Standards that relate to teaching;
- Part Two sets out the Standards for professional and personal conduct.

The Teachers' Standards that relate to teaching are comprised of eight Standards only

The Preamble to Part One and Part Two seeks to summarise the '*values and behaviour that all teachers must demonstrate throughout their careers*' but is not intended to be interpreted as an additional discrete Standard.¹

Each Standard in Part One is accompanied by a number of bulleted sub-headings. However, the DfE has made clear that these sub-headings do not constitute Standards in their own right. The sub-headings merely seek to 'amplify' the Standards and provide contextual information to support the interpretation of the Standards in every conceivable circumstance where their use may be mandatory.² **There is therefore no statutory or legal requirement for teachers' performance to be evaluated with reference to the aspects of professional practice described in the sub-headings.**

Protocols for the use of the Teachers' Standards in schools must be based on the clear understanding that there are only eight statutory Standards in relation to teaching that can be applied to the performance management of teachers.

Performance management of teachers should begin from an assumption that the Teachers' Standards are being met

Given that the stated aim of the Teachers' Standards is to establish the '*minimum level of practice expected of teachers in England*',³ it follows that, without clear and compelling evidence to the contrary, all teachers should be assumed to be undertaking their professional roles and responsibilities in a way consistent with the requirements of the Standards.

It is not acceptable to establish approaches to performance management based on the presumption that teachers are not meeting the Teachers' Standards with the onus of proof placed on teachers to demonstrate that they are doing so.

The Teachers' Standards are not to be used as a checklist for performance management

The 2012 Regulations governing performance management include a provision that teachers' performance must be 'assessed against' the Teachers' Standards.⁴ However, the DfE has not prescribed in the 2012 Regulations, or in any accompanying guidance, the way in which this provision should be interpreted in practice. It is therefore clear that statutory requirements to assess teachers against the Standards do not necessitate an approach in which teachers' performance is checked against every Standard. The NASUWT is clear that such an approach would fail to take into effective account the fact that any framework of effective professional standards should be regarded as a holistic set of integrated components rather than a crude checklist of features of professional practice.

Instead, the assumption that teachers, in the absence of any clear and compelling evidence to the contrary, are meeting the Standards should be regarded as sufficient to satisfy the legal requirement to assess teachers against the Standards.

This does not prevent the Standards being used as a tool to assist teachers' own reflection on their professional practice or their career, pay or professional development aspirations. In the context of performance management undertaken as a positive and supportive process of professional dialogue and evaluation of practice, the Standards can be used to support the identification of objectives in the cycle. More information and guidance about the setting of objectives can be found in Section 3 of this practical guide.

Additional wording should not be substituted into the Teachers' Standards

The DfE's guidance on the Standards makes clear that it is not appropriate to substitute additional descriptors for the wording used in the Teachers' Standards.⁵ Schools should therefore not seek to augment the Standards or add additional requirements in respect of the Teachers' Standards beyond those contained within the statutory version published by the DfE.

Teachers do not have to provide evidence that they have continued to meet each Standard

The setting of objectives as part of the performance management process should ensure that reviewers have access to sufficient evidence to allow for a judgement to be made that teachers' performance continues to be effective and that the Teachers' Standards are therefore being met. As a result, there should be no expectation in schools' performance management policies for teachers to generate and collate evidence that they are meeting each of the Teachers' Standards. It should also be noted that there is no requirement for teachers to provide evidence that they are meeting each of the Standards in the 2012 Regulations governing performance management.

Appraisal reports do not require detailed assessments of teachers' performance against the Standards

The 2012 Regulations require that teachers' written appraisal reports must include an assessment of their performance against the Standards against which they are being assessed. However, the DfE's guidance on the Teachers' Standards confirms that there is no prescribed method of recording this

assessment. It is therefore not necessary for schools to record detailed assessments against each of the Teachers' Standards. Given that, unless there is clear and compelling evidence to the contrary, an assumption should be made that teachers are meeting the Standards, there is no need for schools to do any more to comply with the requirements of the 2012 Regulations in these circumstances than to confirm that this is the case.

The Teachers' Standards should not be applied differently according to teachers' position on the pay scale

Arrangements in schools in which attempts are made to impose different interpretations of the requirements of the Teachers' Standards according to the position of teachers on the pay scale are unacceptable. The Teachers' Standards Review Group, the body tasked by the DfE with developing the Teachers' Standards, explicitly rejected any requirement for the Standards to be deployed in this way. The DfE has confirmed this view and has stated clearly that it is not necessary or helpful for schools to adopt rigid models that seek to set out exactly what the Teachers' Standards mean for teachers at different points of the pay scale.

The Teachers' Standards do not replace key statutory and contractual terms and conditions of employment for teachers

While the Teachers' Standards are constituted on a statutory basis, it is important for protocols in schools to recognise explicitly that they do not replace or override teachers' other key contractual and statutory rights. In particular, the Teachers' Standards do not replace the professional duties and responsibilities set out in the School Teachers' Pay and Conditions Document (STPCD). The Teachers' Standards should also not be regarded as either a contract of employment or a job description.

Nothing in the Teachers' Standards militates against the right of teachers and school leaders to take lawful industrial action.

Schools must be able to demonstrate that the Teachers' Standards will be applied on an equitable basis for all relevant teachers

Schools are under a legal responsibility to ensure that they apply the Teachers' Standards in a way that does not discriminate unlawfully on the grounds of sex, race, disability, age, religion or belief, sexual orientation, part-time working, fixed-term contract or trade union activities. Schools must also demonstrate how they promote equality of opportunity with regard to their use of the Teachers' Standards.

It is particularly clear from this requirement on schools that the establishment of practices within the context of performance management whereby schools seek to apply the Teachers' Standards as a checklist of requirements on teachers are likely to be highly problematic in terms of the obligation on schools to ensure that use of the Standards does not lead to outcomes that might potentially discriminate against staff. Adherence by schools to the principles set out in this guidance will assist schools in ensuring that their practices do not undermine their obligations in respect of discrimination and equality of opportunity.

Further information about the equality dimensions of appraisal practices can be found in the 'How to' sheet in Annex 5 of this practical guide.

¹ DfE (2012) *Teachers' Standards*. (www.education.gov.uk/publications/standard/SchoolsSO/Page1/DFE-00066-2011); retrieved on 23/08/12.

² DfE (2012). *Teachers' Standards: Myths and Facts*. (<http://media.education.gov.uk/assets/files/pdf/t/teachers%20standards%20myths%20and%20facts.pdf>); retrieved on 23/08/12.

³ DfE (2012). *Teachers' Standards: How will they be used?*

⁴ Education (School Teachers' Appraisal) (England) Regulations 2012. (www.legislation.gov.uk/ukSI/2012/115/contents/made), retrieved on 24/08/12.

⁵ DfE (2012). *Teachers' Standards: Myths and Facts*.

HOW TO:

SECURE THE EFFECTIVE PREPARATION AND SUPPORT OF REVIEWERS

Key points

The effective preparation and support of reviewers is central to realising the benefits of performance management, as reviewers are responsible for making sure that key elements of the process are undertaken fairly and consistently. These include setting objectives, agreeing performance success criteria and using them to assess progress, determining the reviewee's support, training and development needs and how these will be met and, where an 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:
 - 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 documents, including:
 - the reviewee's job description;
 - any relevant pay progression criteria;
 - any relevant whole school or team objectives as specified in the school development/improvement plan;
 - the Teachers' 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.

ANNEX 6
MODEL APPRAISAL REPORT

CONFIDENTIAL

Date of meeting:

Reviewee's name:

Reviewer's name:

REVIEW SECTION

Assessment of performance during the cycle:

Teachers' Standards

The reviewee is continuing to meet the standards

Recommendation for pay progression (where reviewee is eligible):

Reviewee's comments:

Signed (Reviewee): _____ **Signed (Reviewer):** _____

Date signed: _____

ANNEX 6 continued
PLANNING SECTION

Date of meeting:

Objectives for next cycle, including any relevant whole school/year/team objectives and success criteria:

- 1.
- 2.
- 3.

Support (as appropriate):

Timescales for completion:

Amount, timing and focus of planned classroom observation (as appropriate):

Training and development (as appropriate):

Eligibility for pay progression at the end of the cycle: Yes Not Applicable

Reviewee's comments:

Signed (Reviewee): _____ **Signed (Reviewer):** _____

Date signed: _____

ANNEX 7

APPEALS – MODEL LETTERS

If following the review of performance at the end of the cycle the reviewee disagrees with the outcome of the review, including any recommendation regarding pay progression, the reviewee may, having considered the grounds for appeal as detailed in Section 1 of this practical guide, believe that they have grounds for appeal.

The reviewee may have concerns about the plans for the next cycle.

The NASUWT Regional Centre should be contacted but, pending advice from the NASUWT, the reviewee may wish to submit one of the following letters to the headteacher or, if the headteacher was the reviewer, the Chair of the Governing Body.

If the letter is submitted a copy must be kept.

A Outcome of the review

[Date]

Dear []

The review of my performance was held on []. I am dissatisfied with the outcome and I am writing to give notice that I am seeking advice on the decision and my available options.

Please regard this letter as notice of my intention to appeal, subject to advice.

Upon receipt of such advice, I reserve the right to provide you with full grounds of my appeal (if necessary).

Yours sincerely

[Name]

B Outcome of planning

[Date]

Dear []

My planning meeting for the next performance management cycle was held on []. I am dissatisfied with the outcome and I am writing to give notice that I am seeking advice.

Please regard this letter as notice of my intention to appeal/lodge a grievance, subject to advice.

Upon receipt of such advice, I reserve the right to provide you with full grounds of my appeal/grievance (if necessary).

Yours sincerely

[Name]

These letters are downloadable from the NASUWT website at
www.nasuwt.org.uk/PerformanceManagement.

ANNEX 8 NASUWT REGIONAL CENTRES

Eastern

(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

(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

(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)

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North East

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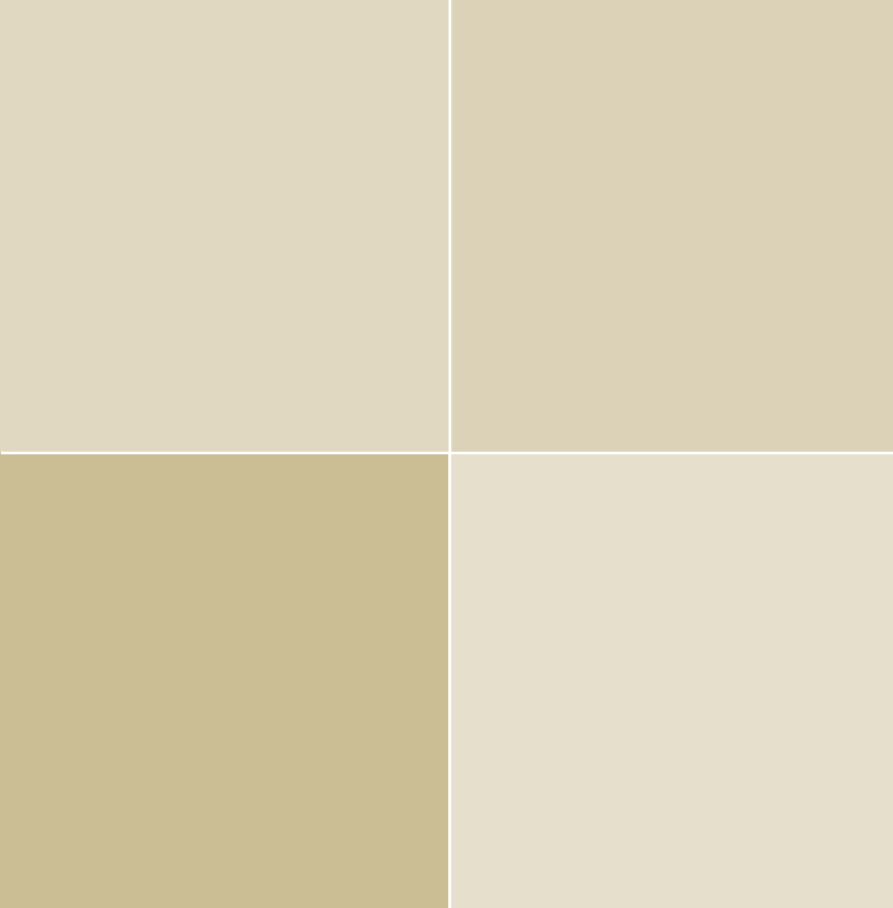
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(Barnsley, Bradford, Calderdale, Doncaster, East Riding of Yorkshire, Kingston-upon-Hull, Kirklees, Leeds, North East Lincolnshire, North Lincolnshire, North Yorkshire, Rotherham, Sheffield, Wakefield, York)

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