



DOYLE CLAYTON
Workplace Lawyers

Education Bulletin
Summer Term 2019

Welcome to the summer term edition of our Education Bulletin! We publish a bulletin each term covering news and topics that we hope will be of interest to schools and colleges. The bulletin includes recent and upcoming changes in the law, a summary of some cases that are relevant to schools and colleges plus any safeguarding developments to make sure that you are kept up to date.

OUR NEWS

Conferences

The education team is gearing up to exhibit at a number of conferences and events this term. [Anna Blackden](#), [Liz Timmins](#) and [Simon Henthorn](#) exhibited at the Boarding Schools' Association conference for head teachers on 7-8 May in London. We are also going to the Independent Schools' Bursars Association conference from 21-22 May 2019 in Manchester, plus the UK Council for International Student Affairs conference on 3-5 July at Keele University. We hope to see some of you there.

IN THE NEWS

Employment tribunal compensation limits

Unfair dismissal and redundancy

The maximum amount of a week's pay, used for calculating the unfair dismissal basic award and statutory redundancy payments, has increased to £525 (up from £508). The maximum compensatory award for unfair dismissal has increased to £86,444 (up from £83,682) (or 52 weeks' gross pay if lower). The new rates apply where the effective date of termination of employment was on or after 6 April 2019.

Discrimination

The bands used for calculating injury to feelings awards in discrimination claims have increased for claims made to the Employment Tribunal on or after 6 April 2019.

The new bands are as follows:

- lower band of £900 to £8,800 (for less serious cases)
- middle band of £8,800 to £26,300 (for cases that do not merit an award in the upper band) and
- upper band of £26,300 to £44,000 (for the most serious cases)

Exceptionally, awards may exceed £44,000.

Injury to feelings compensation is also awarded in claims for detrimental treatment, where, for example, a school treats an employee detrimentally on grounds of whistleblowing, pregnancy, maternity or other family leave or because the employee exercised working time rights (including the right to holiday and rest breaks). The same bands will apply in these cases.

Statutory rates for sick pay, maternity pay and other family leave

The statutory sick pay rate increased to £94.25 per week on 6 April 2019 (up from £92.05).

The prescribed rate for statutory maternity, paternity, adoption and shared parental pay increased to £148.68 per week on 7 April 2019 (up from £145.18).

Auto-enrolment

From 6 April 2019, minimum pension contributions under the pensions auto-enrolment regime rose to 8% of qualifying earnings. Schools now have to pay at least 3% as an employer contribution.

Future employment law reforms

The Government has announced a number of employment law reforms.

Written statement of employment terms

From April 2020, schools will have to provide all workers with a written statement of employment terms. Currently they only have to provide a statement to employees. Schools will also have to provide the statement earlier than is currently the case - by the first day of employment, instead of within two months of starting.

Holiday pay

From April 2020, employers calculating an employee's statutory holiday pay will have to base the calculation on their average pay over the 52 weeks before they take the holiday. Currently they base it on the employee's average pay in the 12 weeks before. The change is designed to ensure that fluctuations in pay do not adversely affect the level of statutory holiday pay. This is unlikely to impact on teaching staff but may affect the way you calculate holiday pay for some support and peripatetic staff.

Right to request a more stable contract

Zero hours and other workers who do not have a set working pattern will be able to ask for more predictable working hours once they have worked for a school for 26 weeks. Although the school will not have to agree to the request, it will have to consider it and deal with it in a reasonable manner. The Government has not said when it plans to introduce this right.

Continuous service rules

The rules for calculating continuous employment are to change, although the Government has not said when. Currently a one week gap in employment with the same employer breaks continuous service. This is going to increase to four weeks, meaning that it will be easier for employees to accrue employment rights and protections, including the right to claim unfair dismissal and receive a statutory redundancy payment.

Cap on termination payments in the public sector

The Government is going ahead with plans to prevent public sector employers paying exit or severance payments of more than £95,000. The cap will affect maintained schools and academies and will apply to both existing and new employees.

The detail is contained in draft regulations and guidance which the Government is consulting on but it has not yet given an indication of the intended implementation date.

What counts as an exit payment?

Payments subject to the cap are wide ranging and include:

- Redundancy pay
- Payments in lieu of notice if they are more than 25% of the employee's annual salary. Salary for these purposes includes contractual benefits in kind



- Any other payment made on termination, whether made under the employment contract or otherwise. This includes paying out a fixed term contract and payments to top up an employee's pension, as well as payments in the form of shares or share options

What does not count as an exit payment?

The following payments are not subject to the cap:

- Death in service benefits
- Payments for incapacity
- Pay in lieu of untaken holiday
- Payments made to comply with a court or tribunal order

Are there any exceptions?

The cap will be relaxed in cases of discrimination and whistleblowing if an employment tribunal would be likely to uphold the claim and award compensation. The Minister (or person acting on delegated authority) must be satisfied of this and the employer will be expected to provide legal advice to this effect.

The cap will also be relaxed where the payment is made as a result of TUPE applying.

In rare cases, the Minister (or person acting on delegated authority) may also agree to relax the cap if they are satisfied that:

- Imposing the cap would cause undue hardship or significantly inhibit workplace reform
- Terms of departure were agreed before the legislation comes into force but the exit is delayed until after that date through no fault of the employee. This could apply where the employer asks the employee to stay to complete a critical business project.

If you would like to respond to the [consultation](#) the deadline is 3 July.

Landmark review on school exclusions – what schools and colleges need to know

The Government has responded to the Timpson review of school exclusions, which highlighted the need to ensure that schools use their powers to exclude children correctly. It has accepted all the Timpson review's recommendations in principle and has set out how it plans to support children, schools and alternative provision providers.

Overall, the Government is not proposing any drastic changes to the existing laws or practices on exclusions. However, it is focusing on understanding why schools exclude children and ensuring that schools remain accountable for excluded children so that exclusion remains a last resort.

Despite committing to providing greater clarity for school leaders, the Government's proposals are quite woolly and vague in places. The key proposals that should be on your school's radar are:

- **Making schools accountable for the outcomes of permanently excluded children.** The Government will consult in Autumn 2019 on this issue, including on how to tackle "off-rolling" – where schools remove children from the school roll without formal exclusion. The Government will also consult on reducing the number of school days a child can miss through exclusion and on whether schools should arrange alternative provision during all exclusions. Currently, the maximum number of school days a child can miss is 45 per year. A school only



needs to put alternative provision in place where the child will be excluded for five consecutive school days or more

- **Clearer and more consistent guidance by Summer 2020.** The Government will make its guidance clearer by returning to using the terms “suspension” and “expulsion” instead of confusingly calling them “fixed term” and “permanent” exclusions. The guidance will also make it clear that schools should share data on exclusions so trends can be identified. It will also provide updated guidance for governors and for parents, as well as an updated SEND code of Practice by the end of 2020
- **Sharing exclusions data to identify trends.** The review highlighted that 78% of exclusions were issued to children with special educational needs, in need or eligible for free school meals. Certain ethnicities are also more likely to be at risk. Going forwards, governing bodies, academy trusts, local forums of schools and Directors of Children’s Services will need to review information on excluded children to establish local trends. Schools will no longer be able to use the code “other” to record why they have excluded a child. As a result, they will be able to gain more insight into the complex factors that lead to exclusion
- **Establishing a practice programme and more support for alternative provision.** The Government will establish a practice programme that establishes effective partnership working between local authorities, schools, alternative provision and other partners. The aim is for schools to intervene early for children at risk of exclusion and support those who are excluded. The Government will set out plans in the Autumn on how it will support alternative provision. There is also currently a call for evidence on how the SEND and alternative provision financial arrangements in England could be improved to better support children and young people. This closes on 31 July 2019
- **More training.** The Government will reform training for new teachers by offering enhanced training on managing behaviour through the Early Career Framework. There will also be a Special Educational Needs Coordinator induction pack and guidance for school leaders. The Government will also support schools and colleges in training a Designated Senior Lead for mental health for free

You can access the Timpson Review and the Government’s response [here](#)

Tier 4 Study Visas

The Tier 4 visa route is the primary route used by non-EEA nationals wishing to study in the UK. Following the latest annual review of low risk nationalities, the Home Office has updated the list of countries in Appendix H for whose nationals there are lower documentary requirements.

From 6 April 2019, nationals of the following countries can benefit from the easier documentary requirements when applying for a Tier 4 study visa: Brazil, Kazakhstan, Mauritius, Oman, Peru and Tunisia. However, Argentina, the Maldives and Trinidad and Tobago have been removed from the list which means nationals of those countries will have to provide evidence of their money and qualifications when applying for a Tier 4 visa to study in the UK.

Under the Tier 4 (Child) route, used by non-EEA nationals aged 4-17 wishing to study at an independent school in the UK, further provision has been made to confirm funds are held or being provided to them by a foster carer or close relative.



CASE LAW UPDATE

Teacher's suspension not a breach of the implied term of trust and confidence

A school did not breach the implied term of trust and confidence when it suspended a teacher pending investigation of allegations that she had used unreasonable force against two children.

Facts

In *London Borough of Lambeth v Agoreyo*, Ms Agoreyo began working at a primary school teaching a class of five and six year olds, two of whom exhibited extremely challenging behaviour. Allegations were made that she had used unreasonable force towards these two children on three occasions between 9 November and 5 December 2012. She was accused of dragging one of the children out of the classroom, dragging the other child very aggressively along a corridor and on another occasion carrying that child out of the classroom.

On 14 December the head suspended her pending an investigation into the allegations. Ms Agoreyo claimed that suspension was a breach of the implied term of trust and confidence as it was not reasonable or necessary in order for the school to investigate the allegations. She resigned and claimed constructive dismissal.

Decision

The County Court rejected her claims. On appeal, the High Court agreed that the school had breached the implied term of trust and confidence and upheld her claims.

The Court of Appeal upheld the school's appeal, ruling that the school had been entitled to act as it did. It was important not to over-complicate cases like this, where it was obvious that the allegations of misconduct were serious and required investigation. Suspension does not have to be necessary to be lawful. The key question was whether the school had responded to an allegation of possible misconduct in a reasonable and proper manner. Given the context was one in which the school had to safeguard the interests of very young children, the County Court judge had been entitled to find that it had. The school had not therefore breached the implied term of trust and confidence.

Implications for schools

Schools can suspend an employee in order to investigate serious allegations. However, suspension should be a considered decision, not a knee-jerk reaction. The legal test is whether the employer had reasonable and proper cause for suspending the employee. In this case, the school's safeguarding obligations meant that it did.

Academy should have known teacher was disabled

An Academy should have known that a teacher on long-term sick leave was disabled before it received an Occupational Health report.

Facts

In *Joanne Lamb v Garrard Academy*, Ms Lamb was a teacher at Garrard Academy. In February 2012, she went off sick because of reactive depression following alleged bullying at work.

In March 2012, she raised a grievance complaining about the actions of the deputy head teacher. The Head of HR investigated and upheld the grievance. However, the Academy's Chief Executive considered that the grievance report was inadequate and she set it aside.



On 18 July 2012, Ms Lamb met with the Chief Executive and told her that she had post-traumatic stress disorder (PTSD) caused by childhood experiences and that it could be triggered by difficult situations.

In November 2012, an Occupational Health report concluded that Ms Lamb's symptoms of reactive depression probably began in September 2011. It stated that she was likely to recover if the outstanding issues relating to her grievance were resolved.

The Academy's new Head of HR carried out a fresh investigation into Ms Lamb's grievance when he started in September 2012. He rejected the grievance in January 2013.

Ms Lamb claimed disability discrimination, including breach of the duty to make reasonable adjustments. The adjustments identified related to the Academy's handling of her grievance.

The Academy accepted that Ms Lamb was disabled. However, the duty to make reasonable adjustments only arises when an employer knows or ought reasonably to have known that an employee is disabled. This requires that they know or ought reasonably to have known that the employee has a physical or mental impairment which has a substantial and long-term effect on the employee's ability to carry out normal day to day activities. For the effects of a disability to be long-term, they must have lasted or be expected to last for at least 12 months.

The employment tribunal ruled that the Academy did not know that Ms Lamb was disabled until it received the Occupational Health report in November 2012. This was because it was only at that point that it knew that the effects of the impairment were long-term. Therefore, no duty to make reasonable adjustments arose before this date.

Ms Lamb appealed to the Employment Appeal Tribunal.

Decision

The Employment Appeal Tribunal allowed Ms Lamb's appeal. The employment tribunal's finding that the Academy actually knew about Ms Lamb's PTSD in July 2012, and that it dated back to childhood, could not be reconciled with its finding that the Academy could not reasonably have known that she was disabled until November 2012. The Employment Appeal Tribunal ruled that the Academy had actual knowledge of her disability by 18 July 2012, when she disclosed her PTSD to the Chief Executive.

If it was wrong about the date of actual knowledge, the Employment Appeal Tribunal considered that the Academy ought reasonably to have known of Ms Lamb's disability in July 2012. By this point, she had been off work for over four months with reactive depression and her grievance was no closer to being resolved. Had she been referred to Occupational Health in July 2012, it was overwhelmingly likely that Occupational Health would have concluded that her impairment could last another three months to September 2012 (at which point it would have lasted for 12 months and so be regarded as long-term).

The Employment Appeal Tribunal upheld Ms Lamb's complaint, finding that that the Academy had breached its duty to make reasonable adjustments from July 2012.

Implications for schools

This case highlights the importance of employers acting promptly in referring employees to Occupational Health and/or seeking information from a medical professional. If an employer ought reasonably to have known that an employee is disabled, it cannot rely on its own inaction and resulting ignorance as a defence.



Dismissal for cohabiting not religious discrimination

An orthodox Jewish nursery that dismissed a teacher after it discovered that she was living with her boyfriend had not discriminated against her on grounds of religion or belief.

Facts

In *Gan Menachem Hendon Ltd v De Groen*, Ms De Groen worked as a teacher at an ultra-orthodox Jewish Nursery. She attended a Nursery BBQ with her boyfriend where they openly discussed the fact that they lived together. A number of parents complained. The Nursery told her that whilst her private life was none of its concern, it risked damaging the Nursery's reputation in the eyes of parents. The head teacher told her that cohabiting outside marriage was wrong and a potential solution would be for her to tell them that she was no longer living with her boyfriend so that they could tell parents that this is what she had told them.

Ms De Groen refused to lie and the Nursery dismissed her, citing contravention of its culture, ethos and religious beliefs and damaging the Nursery's reputation leading to potential financial detriment.

Ms De Groen brought a number of claims, including one for direct discrimination on the grounds of religion/belief. The employment tribunal upheld her claim and the Nursery appealed to the Employment Appeal Tribunal.

Decision

The Employment Appeal Tribunal upheld the Nursery's appeal. Ms De Groen had not been treated less favourably on grounds of her religious belief but on grounds of the Nursery's religious beliefs. It ruled that it is not possible to claim direct discrimination where the alleged discriminator acts because of its own religious beliefs. A claim of direct discrimination which rests on the discriminator's belief must fail because the discriminator would treat everyone the same and so it would not be possible to show less favourable treatment.

The Employment Appeal Tribunal rejected the Nursery's argument that Ms De Groen could not claim religious discrimination because she too was Jewish. It is possible to claim religious discrimination where an employee and employer have the same religion, if the employer treats the employee less favourably because of their lack of belief on a point which the employer considers to be a central tenet of that religion. If the root cause of Ms De Groen's dismissal had been a disagreement about whether Judaism prohibited cohabitation outside marriage, she would have been protected against discrimination. However, this is not what happened here.

Implications for schools

An employee cannot claim direct discrimination on grounds of religion/belief if a school acts because of its own beliefs. The employee can only claim where their own religion/ belief (or lack of religion/ belief) is the reason why the school treats them less favourably. The employment tribunal in this case found that Ms De Groen had been treated less favourably because of the school's beliefs and not her own. Therefore her claim failed.

Gay head teacher succeeds in discrimination claims due to biased disciplinary process

Serious failings and bias throughout a disciplinary process entitled an employment tribunal to conclude that a school had directly discriminated against a gay head teacher on grounds of sexual orientation.



Facts

In *The Governing Body of Tywyn Primary School v Aplin*, Mr Aplin was a 42 year old openly gay head teacher at a primary school. He met two 17 year old boys on Grindr and the three of them had sex. The matter came to the attention of the police and social services who investigated and concluded that no criminal offence had been committed and there were no child protection issues.

The School began a disciplinary investigation to consider whether Mr Aplin's conduct had brought the School into disrepute, undermined his ability to fulfil his role or displayed a gross error of judgment. The investigating officer, Mr Gordon, produced a report which the employment tribunal criticised for lacking objectivity, approaching the case as involving child protection issues (despite social services' finding that there were no child protection concerns) and drawing selectively on material from the police and social services investigations which it did not provide to Mr Aplin.

The employment tribunal was also critical of how the School conducted the disciplinary hearing. Mr Gordon presented the management case (although the School's procedures provided that an investigating officer should not do so) and he did so in a way which was "far from objective". In addition, Mr Hodges, the local authority lawyer whose role was to assist the disciplinary panel, retired with the panel members and he made the decision, not the governors.

The School dismissed Mr Aplin, considering that his position was untenable. He appealed and there were further procedural failings in relation to the appeal.

Mr Aplin claimed direct discrimination on grounds of sexual orientation. The employment tribunal upheld his claim, finding that the flaws in the disciplinary process were so serious and wide-ranging that it was entitled to draw an inference that they were due to his sexual orientation.

The School appealed to the Employment Appeal Tribunal.

Decision

The Employment Appeal Tribunal upheld the employment tribunal's decision.

The employment tribunal recognised that the whole background was intimately connected with Mr Aplin's sexuality. In the circumstances, it had been entitled to find that the procedural failings by the School were so bad that it could infer that there was more to it than simply that Mr Aplin had had lawful sex with two 17 year-olds and that, in the absence of any other explanation, discrimination played a part.

Implications for schools

Schools need to ensure that those conducting disciplinary investigations and hearings follow internal procedures, approach matters objectively and do not let their personal views affect their handling of the matter. Diversity and unconscious bias training may assist with this.

Schools should provide employees with the evidence relied on in advance of the disciplinary hearing and the roles of all involved in disciplinary procedures should be clearly delineated. The Acas Code of Practice on disciplinary and grievance procedures indicates that different people should be responsible for conducting the disciplinary investigation and disciplinary hearing wherever practicable. Case law indicates that HR should be careful to limit their involvement to advising on process and not get involved in issues of culpability.

Finally, it is important to frame disciplinary charges carefully and not to stray into other areas.



Discrimination arising from disability: unfavourable treatment

The Supreme Court has confirmed that advantageous treatment that could have been more advantageous does not constitute unfavourable treatment for the purposes of a claim of discrimination arising from disability.

Facts

In *Williams v Trustees Of Swansea University Pension and Life Assurance Scheme*, Mr Williams retired at the age of 38 due to ill-health. He had worked for Swansea University for 13 years, the first 10 on a full time basis. The University reduced his hours by 50% as an adjustment to accommodate his disability. Under the University's pension scheme, he was entitled to an enhanced immediate pension based on his final salary.

Mr Williams claimed discrimination arising from disability, arguing that basing his pension on his final (part-time) salary, rather than his full-time salary prior to adjustments to his working hours, amounted to unfavourable treatment because of something arising in consequence of his disability (his inability to work full-time). The employment tribunal upheld his claim, finding that he had been treated unfavourably and the treatment was not justified. The case was appealed and eventually reached the Supreme Court.

Decision

The Supreme Court rejected the appeal. There are two simple questions of fact for a tribunal considering this type of claim:

- What was the relevant treatment?
- Was it unfavourable to the claimant?

The relevant treatment in this case was the award of a pension. There was nothing intrinsically unfavourable or disadvantageous about that. To describe the amount of the pension as unfavourable treatment would be to introduce an artificial separation between the method of calculation and the award to which it gave rise. Mr Williams was only entitled to an award at all because of his disability. Had he been able to work full-time, he would not have been entitled to an immediate enhanced pension. He would have had no immediate right to a pension at all.

Implications for schools

The Supreme Court considered that the Equality and Human Rights Commission's Code of Practice, which talks about "being placed at a disadvantage", provides a helpful indication of the relatively low threshold of disadvantage required for this type of claim. When considering whether an employer has treated a disabled employee unfavourably, a tribunal should simply consider what the treatment was and whether it was unfavourable i.e. whether it places the employee at a disadvantage. If the treatment does not disadvantage the employee, it will not be unfavourable. The fact that the employer might have treated them more favourably does not change that.

Reasonable adjustments and relevance of employers' policies

An employment tribunal was wrong to rule that an employer had complied with its duty to make reasonable adjustments when it had not provided a dedicated parking space as required by its own parking policy.



Facts

In *Linsley v Commissioners for Her Majesty's Revenue and Customs*, Ms Linsley has ulcerative colitis and is disabled. Her condition, which can be exacerbated by stress, means that she may need to go to the toilet urgently. HMRC's national parking policy provides that priority is given to staff requiring a parking space as a reasonable adjustment.

Occupational Health reports indicated that Ms Linsley would benefit from a dedicated parking space so as to avoid the stress of looking for a place to park and so that she could get to the toilet urgently if needed. She was provided with a dedicated parking space. However, when she moved sites in November 2016 she was not provided with one. Instead, HMRC made alternative arrangements for her which allowed her to park in an "essential user bay" near the building entrance. In an emergency, she could park in a layby near the office. This would be a parking violation (but HMRC would ensure she did not get a penalty) and she would then have to move the car later.

Ms Linsley went off work sick. Occupational Health reports highlighted that stress was a trigger for her condition and that HMRC's failure to implement its recommendations was exacerbating her symptoms.

Ms Linsley brought a disability discrimination claim alleging that HMRC had breached its duty to make reasonable adjustments. The employment tribunal rejected her claim, ruling that the alternative parking arrangements HMRC had put in place were sufficient.

Ms Linsley appealed to the Employment Appeal Tribunal.

Decision

The Employment Appeal Tribunal ruled that when considering whether the provision of a dedicated parking space was a reasonable adjustment, HMRC's parking policy was highly relevant. An adjustment recommended in an employer's own policies is likely to be a reasonable one for it to make and it makes no difference whether it is a contractual or discretionary policy. Whilst an employer may legitimately decide not to make an adjustment if it has a cogent reason, the only explanation given by HMRC for failing to comply with its parking policy was that the managers were unaware of it what it said. That was not a good reason for failing to apply the policy.

The tribunal had also failed to appreciate that the disadvantage Ms Linsley suffered was the stress of having to find a parking space and not just the need to be able to park near the toilet facilities. Had it appreciated this, it may well have decided that adjustments made by HMRC were not sufficient.

Implications for schools

Schools should ensure that they follow their own policies on reasonable adjustments, unless they have a cogent reason for not doing so. Otherwise it will be very difficult to show that they have complied with their duty to make reasonable adjustments. In addition, when considering what adjustments it might be reasonable to make, it is important to identify the disadvantage suffered by the employee. In this case, HMRC's adjustments addressed the disadvantage of needing to get to the toilet urgently but not the stress of looking for a parking space which exacerbated her condition.



SAFEGUARDING UPDATE

Relationships and Sex Education

From September 2020, primary schools will have to teach Relationships Education and secondary schools will have to teach Relationships and Sex Education. It will also be compulsory for all schools to teach Health Education, apart from independent schools who will have to continue to teach Personal, Social, Health and Economic Education.

Although schools are only obliged to start teaching these subjects from September 2020, the Government is actively encouraging schools to start teaching them from September 2019.

The Government has [responded to its consultation](#) on teaching Relationships and Sex Education and published [draft statutory guidance](#) which schools must have regard to when teaching these subjects. It has also published a set of [FAQs](#) aimed at pupils' parents.

Schools will have to consult with parents on their policies for teaching these subjects to ensure parental views are understood and considered when taking decisions about how they will be taught. In April this year, the Secretary of State Damian Hinds [responded to concerns](#) raised by the National Association of Head Teachers about the requirement to consult parents. He explained why consultation is important but reassured head teachers that what is taught is ultimately a decision for the school and parents should not have any veto over the contents of the curriculum.

Governance Handbook updated

The DfE has updated the [Governance Handbook](#) for maintained schools, academies and multi-academy trusts. The new guidance:

- Reinforces the importance of governors understanding that children are capable of abusing their peers and of implementing policies to minimise the risk of peer on peer abuse
- Indicates that the role of Designated Safeguarding Lead should be explicitly mentioned in the role holder's job description and they should have the necessary support to carry out this role
- Provides a link to '[Counselling in schools: a blueprint for the future](#)' which provides advice for school leaders on setting up and improving counselling services in primary and secondary schools and explains how counselling fits into a whole school approach to mental health and wellbeing

Brexit guidance for schools

On 31 January this year, the Government published [guidance for schools](#) on preparing for a no deal Brexit.

As well as dealing with the rights of EU, EEA and Swiss nationals to remain in the UK, the guidance makes it clear that the current right of any child living in the UK to apply for and access a school place in England, irrespective of migration status, will continue.

It warns that the current system of reciprocal recognition of professional qualifications will not apply if the UK leaves the EU without a deal. However it will ensure that qualifications will continue to be recognised through a new system. A no deal Brexit will not affect teachers who have already had their qualifications recognised in the UK or who apply to have their qualification recognised before the UK leaves the EU.

The current requirement to share details of sanctions or restrictions imposed on teachers will cease to apply if the UK leaves the EU without a deal. This means that the Teaching Regulation Agency will

no longer maintain details of teachers who have been sanctioned in the EU, EEA and Switzerland. The Government will update Keeping Children Safe in Education to advise schools and colleges about how these countries' assessment of a teacher's competence can be checked in future.

For further information on the rights of EU, EEA and Swiss nationals following Brexit, please see our detailed [guide](#).

Any Suggestions?

If you have any suggestions about what you would like us to include in future editions of our Education Bulletin, please email Simon Henthorn at shenthorn@doyleclayton.co.uk.

