

2012 No. 115

EDUCATION, ENGLAND

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

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

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.

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.

17th January 2012

Nick Gibb
Minister of State
Department for Education

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.

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

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.

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.

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