

Warners UpdatEd. Webinar The Future of Employment in Schools Hot Topics for 2023

7 June 2023

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Employment

warners |
solicitors |

TODAY'S PRESENTERS



Louise is a Partner, Head of Employment, and leads Warners Education Sector Team, supporting education clients with a diverse range of employment law and HR advice as well as providing relevant training and updates.

With experience sitting as a school governor between 2017 to 2021 and from 2021 to date being trustee and director at the Rivermead Inclusive Trust and sitting on the Finance, Audit, and Risk Committee, Louise has a good understanding of the needs and requirements of schools and MATs and those working within and for them.



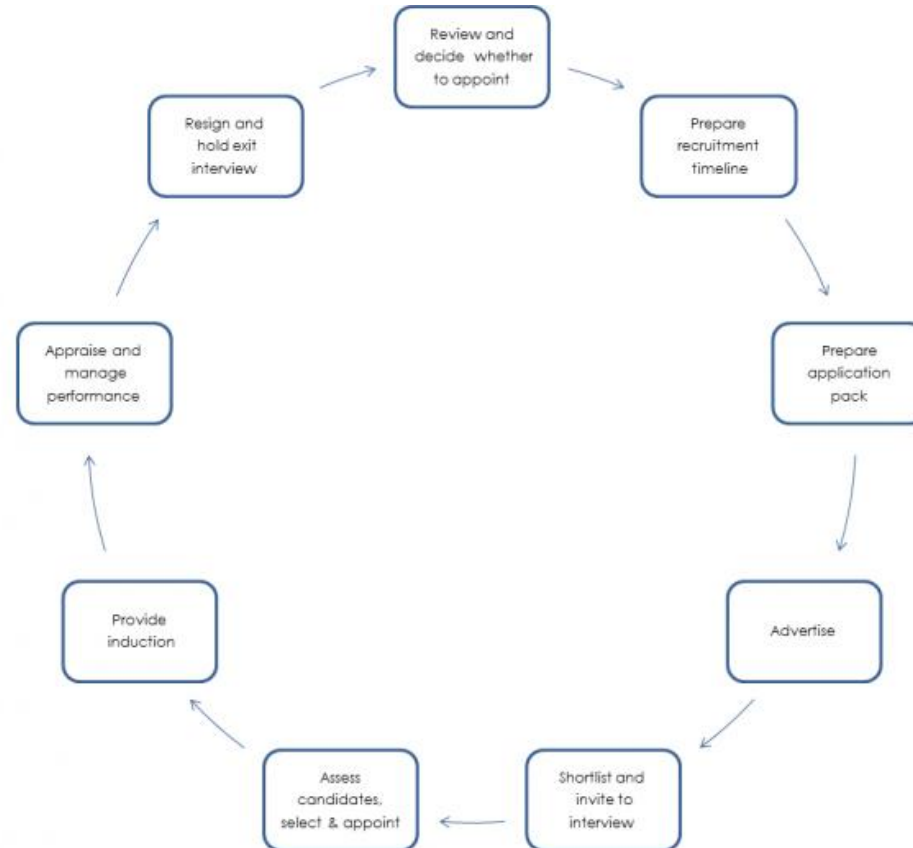
Phil has been the Senior Manager and Head of Internal Audit at a top-25 practice for the past 21 years. Phil is now CFO of a MAT and Director of his business. Phil is also the Governor at a primary school, experienced the academy conversion process, and now forms part of the Finance and Audit Committee. He also writes for Schools Week and sits on one of the ESFA's finance and assurance steering groups.

Today's Session

- Getting recruitment right
- Changing terms and conditions of employment
- Flexible Working
- Other proposed employment law changes

Getting Recruitment Right

The Employment Cycle



Appointment of Staff

- **Documented process**
 - Follow best employment practices
 - Follow relevant Regulations
- **Obtain References**
- **What is good practice?**



Appointment of Staff

- **Safeguarding**
 - Interview Panel
 - KCSIE & Working Together to Safeguard Children
- **Safeguarding information in references**
 - *Smith and Anor v Surridge & Ors (2023) EWHC 351*



Appointment of Staff – Attracting good staff

- Review job adverts
- Review staff wellbeing
- Review marketing strategies
- Are there any other alternatives?



Changing Terms & Conditions

- **Governing Documents**
 - STPCD
 - Burgundy Book/ Green Book/ Blue Book
 - Statutory guidance
- What about academies?



Changing Terms & Conditions – The Law

- **General rule** - you cannot unilaterally change terms and conditions.
- **How can you introduce change then?**
 - 1: Consent and agreement.
 - 2: Relying upon a variation clause.
 - 3: Imposing the change and relying on the employee's conduct.
 - 4: Terminating employment and offering new terms ("Fire and re-hire").
- **Risk of collective consultation requirements.**
- **Collective bargaining?**

Changing Terms & Conditions – Pros and Cons

PROS	CONS
Bring all staff in line on the same contracts on your own terms	Causes Disruption
Gives you an edge over other similar establishments	Could be damaging to you
Staff are encouraged by more favourable terms	Unsettling for staff
Could move away from current terms such as pay safeguarding	Need to be mindful of employment law issues

Flexible Working

- **Current trends**
- **Employment Relations (Flexible Working) Bill – Key changes**
 - 1: Employees are no longer required to explain how the effect of a request could be dealt with.
 - 2: Employees can make 2 requests in any 12-month period.
 - 3: Employers need to consult with employees before rejecting a request.
 - 4: Employers are required to approve or reject a request within 2 months.
- **Also suggested to become a day one right**

Flexible Working – Risks for you

- Employees may bring a claim of up to **8 weeks' pay** (capped at the statutory maximum for a week's pay, currently £643.00)
- **Discrimination claims**
 - Most likely indirect sex discrimination
 - Potentially uncapped compensation!



Other employment law changes

- **Increased protection for employees includes:**

1: Eligible parents whose new born baby is admitted to neonatal care can take up to 12 weeks of paid leave in addition to having entitlements.

2: The extension of existing redundancy protections while on maternity, adoption, or shared parental leave to also cover pregnancy and a period of time after a new parent has returned to work.

3: A new entitlement to one week of flexible unpaid leave per year for employees who are caring for a dependent with a long-term care need.

- **The Retained EU Law Bill**



Any
Questions?

Warners' Education Team

- Warners is proud of the specialist expertise we have built in the education sector and are privileged to have supported many different educational establishments through times of change, innovation, and opportunity.
- Many of our staff are also school governors, members, or trustees giving us in-depth sector knowledge which enables us to deliver enhanced legal support that meets our client's needs.
- This also means we have a detailed understanding of the specific challenges that educational establishments face on the ground, as well as appreciating the key role of governance and challenges that heads, principles, senior leaders and governors can face. At Warners, we have the education knowledge that informs our work and enables us to deliver more valuable legal and business advice.
- www.warners-solicitors.co.uk