The case for change
The music education workforce in 2022
July 2022
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Executive summary

This report sits alongside *Music: A subject in peril?*, published by the ISM in March 2022, which explored classroom provision and what music teachers wanted to see in the refreshed National Plan for Music Education (NPME).

Since that report was published, the Government in England has released the refreshed NPME called *The power of music to change lives: A national plan for music education* and there are questions around whether it is deliverable, given that two of the major issues identified in *Music: A subject in peril?* have not been addressed, namely funding and school accountability measures.

Alongside these issues we know that there are significant challenges facing the workforce, which could also hamper delivery of *The power of music*. So it is only fitting that we now focus on the workforce to see what needs to change in the light of the refreshed NPME. This report focuses on the peripatetic instrumental and vocal workforce as well as academics working in Further Education (FE) and Higher Education (HE) who have faced increasing casualisation for more than 20 years as a result of government policy, changing business models and funding cuts.

The gradual withdrawal of centrally funded provision to both Local Authority (LA) music services and FE and HE institutions has led to a need to cut costs and look for additional income sources. Staff have often borne the brunt of these money-saving measures, with full-time employment and its associated legal rights and entitlements being replaced with less secure contracts and weaker terms and conditions.

Where Scotland and Wales lead the way in recognising the need for fair work practices, England has fallen behind. Despite a flurry of activity, reports and recommendations since 2016 regarding the gig economy and the promise of an Employment Bill in the December 2019 Queen’s Speech, the government has failed to act to address the issues. Several reports have also highlighted the disproportionate impact of COVID-19 on individuals with insecure contracts and the freelance workforce.

The report’s findings are derived from a variety of sources, including data from peripatetic teachers working in schools across the UK, and academics working in FE and HE. The findings highlight the negative impact of increased casualisation, which has resulted in confusion regarding employment status, affected rates of pay and terms and conditions, and led to increased insecurity. The workforce is also undertaking a significant amount of unpaid work and experiencing a lack of professional respect.

The report presents a series of recommendations and suggestions for best practice which organisations can adopt to support their staff. Freelancers and the self-employed face a range of challenges that are not experienced by salaried staff, and organisations should acknowledge this and ensure that they are not subject to unfair working practices or non-consensual self-employment. More equitable contractual practices are needed and contractual stability should be a core organisational objective. Organisations should commit to a level of pay that reflects staff qualifications and experience and which allows for progression. Staff should be fully supported to access Continuing Professional Development (CPD) regularly and given opportunities for reducing professional isolation. The Supreme Court ruling on 20 July 2022 in the case of Harpur Trust v Brazel also means that the amount of leave which part-year workers on a permanent contract are entitled to must not be pro-rated. Holiday pay must be calculated by taking the average weekly pay and multiplying it by 5.6.

Peripatetic instrumental teachers and academic staff are a vital part of the wider music education eco-system and contribute enormously to the pipeline of creative talent in our world-renowned music industry, and yet they are being taken for granted. Without a qualified, secure and fully supported workforce, properly remunerated for their skills, experience and expertise, the ambitious aims of the refreshed NPME risk falling at the first hurdle.

Headline findings

The findings of this report are drawn from several different sources including the ISM’s annual Fees Survey and a 2021 survey of peripatetic instrumental and vocal teachers. The combined data represents over 1,200 peripatetic teachers’ views and experiences of working in schools across the UK. Interviews were also held with a number of academics working in FE and HE.

The findings highlight the impact of casualisation on peripatetic teachers and the FE and HE workforce. Increased casualisation has resulted in confusion regarding employment status and has negatively affected rates of pay and terms and conditions. The workforce feel they suffer from a lack of professional respect and a huge amount of insecurity, which was made more evident during the pandemic.

The results show that 15% of peripatetic teachers are unsure of their employment status, meaning they could be missing out on legal rights and entitlements. The average rates of pay for self-employed peripatetic music teachers working in schools remained the same between 2016 and 2020, increasing slightly in 2021. Many peripatetic teachers reported that there had been no pay increase for several years, despite some schools and music services charging fees that were significantly more than they were being paid, in some cases double.

The findings also show that for many self-employed peripatetic teachers, there is no recognition of qualifications or experience when it comes to pay. They also undertake a significant amount of unpaid work. This is often in the form of administrative tasks including timetabling and report writing, but is also due to large gaps in their teaching days because of constraints placed on them by schools as to when they are able to teach. The number of instrumental and vocal teachers being charged a room rent by their schools has steadily increased since 2018 but the number being charged administration fees has decreased since 2019.

Both peripatetic teachers and academics reported a lack of professional respect. This ranged from feeling undervalued and poorly treated in schools to waiting months (and in some cases, years) to be paid for freelance work at universities. They also reported a significant amount of insecurity, particularly in relation to contracts, with the survey data showing that 72% of peripatetic respondents were on a zero-hours contract. This created a great deal of uncertainty in addition to financial insecurity, which has huge implications for housing, childcare and being able to pay bills.

Overall, the responses show that these vital members of the music education workforce are often being taken for granted, treated differently depending on which part of the country they live and work in, and are subject to weaker terms and conditions as a result of increasing casualisation.
The ongoing postcode lottery of music education provision has been well documented in Darren Henley’s Music education in England report, the Department for Education’s (DfE) Report on the call for evidence and the ISM’s Music: A subject in peril? report.

However, sitting alongside classroom teaching as part of the wider eco-system of music education are visiting music teachers (VMTs) who face their own postcode lottery of pay and conditions and academics working in FE and HE who have faced an increase in casualisation for more than 20 years. Government policy, changing business models and funding cuts have all contributed to this increase in the casualisation of the peripatetic and academic music workforce.

### Changing business models in music education

The Education Reform Act of 1988 brought about the start of a period of change in education. The Act established the National Curriculum and the concept of Key Stages; it also introduced grant-maintained schools and City Technology Colleges. Grant maintained schools could remove themselves from LA control and be funded instead from central government. Maintained schools could be divided into four types depending on their funding source and whether responsibilities were held by governors or the LA – community, foundation, voluntary aided and independent schools. Both academies and free schools are funded by the government but free of government control.

Educational changes continued to progress in the mid-1990s with the introduction of Specialist Schools. By February 2003 there were ten specialist areas in total – arts (visual and performing), business and enterprise, engineering, humanities, languages, maths and computing, music, science, sports, and technology. Schools could bid to become specialists in a maximum of two areas and the financial benefit to successful schools was significant. While they had to meet certain criteria for a successful bid, including raising £50,000 from private-sector investors, Specialist Schools would receive an additional £100,000 from central government as well as £129 per pupil for four years. By 2009 there were 3,068 Specialist Schools, but in 2010 the Coalition Government withdrew the Specialist Schools programme and its associated funding, redirecting the money elsewhere in the education system.

Academies were introduced in the early 2000s, with the first schools opening in September 2002. Under the Labour Government, sponsored academies were generally underperforming schools removed from LA control and converted into academies in order to improve results. These academies had sponsors from organisations such as businesses, universities, other schools, faith groups and voluntary groups. In 2010, the Coalition Government introduced the Academies Act and all schools were invited to become academies, beginning with the fast tracking of underperforming schools with an outstanding Ofsted rating. These became known as converter academies. The 2010 Act also made provision for the establishment of free schools. Free schools are funded by the government but can be set up by interested groups such as parents, teachers, faith groups, businesses, charities, universities or independent schools. Both academies and free schools are funding by government but free of government control.

The Further and Higher Education Act of 1992 changed the funding and administration of FE and HE in England and Wales, and allowed 35 polytechnics to become universities – often known as ‘new’ or ‘post-1992’ universities. It also removed FE colleges from LA control and created new bodies to fund both FE and HE. The Teaching and Higher Education Act of 1998 introduced tuition fees to universities in England, Wales and Northern Ireland, which were then increased as part of the Higher Education Act 2004, with the cap rising to £9,000 in 2010.

The introduction of tuition fees means that government grants to universities now make up less than one third of their funding.

Prior to the establishment of Music Education Hubs as part of the first NPME, instrumental and vocal tuition in schools was provided by Local Education Authorities (LEAs). Changes to funding in the 1980s saw a reduction in provision and the closure of some music services, but renewed funding of £60 million in 1999 allowed LEA music services to bid for money either to protect their provision or to expand it. Although the funding dramatically improved provision, this often varied depending on geographical location. The introduction of Music Education Hubs in 2012 saw reduced LA spending as funding came directly from central government via Arts Council England (ACE). Hub return data shows that funding from the DfE accounted for just under 40% in 2017/18 – an increase from 33% in 2012/13. At the same time, LA contributions have fallen from 7% in 2012/13 to just 2% in 2017/18.

### Public funding and employment practices

The first National Plan for Music Education (NPME) from 2011 acknowledged that the peripatetic workforce needed to be ‘properly recognised for their role in and out of school’ and ‘have opportunities to develop their practice’. It also stated that ‘music education needs to be seen as a rewarding and structured career, with opportunities for both personal and professional growth. Music educators should be supported and recognised throughout their careers.’ One of the ways in which the first NPME sought to create a ‘better skilled’ workforce and provide opportunities for development was through the introduction of the Certificate for Music Educators (CME). However, the qualification isn’t mandatory and its cost (between £725 and £1,500 depending on provider and awarding body) may be prohibitive to many, especially if there is no guarantee of increased job security or pay progression as a result of completing the qualification.

As the Coventry University report Mind the understanding gap states, while the Government sets a framework around good work, and public funding settlements partly frame what is possible, it is often intermediary institutions and stakeholders within the creative and cultural sector who play a critical role in determining the conditions of employment which freelancers experience. Many freelancers are contracted by (powerful) funders, institutions, organisations and businesses who determine the processes of procurement and the terms and conditions of contracts.
The Welsh National Plan for Music Education, published in May 2022, also acknowledges that changes to LA music-services contracts since 1998 have resulted in ‘an increasing variation in the terms and conditions’.

The Welsh Government has committed to carrying out a review of the terms and conditions of LA music-service tutors in 2023 in order to address the needs of the workforce, ensure they are treated equitably and that their contribution is properly recognised.

The terms and conditions also state the organisations are fully responsible for every part of their business, including ‘ensuring that salaries, fees and subsistence arrangements are as good as or better than those agreed by any relevant trade unions and employers’ associations.’

And yet, there are multiple examples of job adverts from Music Hubs for self-employed instrumental and vocal teachers where the hourly rate of pay is substantially (£10 or more) less than that.

By contrast, in other parts of the UK, organisations in receipt of public money are expected to apply fair practices, for example, through the Code of Practice for Ethical Employment in Supply Chains in Wales, and the Fair Work Framework and Fair Work First guidance in Scotland.

In Wales, the Welsh Government, Local Government, Higher and Further Education Institutes and third sector organisations in receipt of public funds are expected to sign up to the Code of Practice, which covers a range of employment issues including false self-employment and unfair use of zero-hours contracts.

Organisations are expected to commit to ensuring that zero-hours contracts are not used as a way of avoiding paying tax and National Insurance contributions, evading employer obligations such as paying sick pay, holiday pay and pensions or unduly disadvantaging workers in terms of pay and employment rights, job security and career opportunities. As Mark Drakeford states in his ministerial foreword: ‘Good employment practices, which empower and reward workers, help to improve the quality of life of people here in Wales and further afield and, in turn, result in better quality goods and services. Poor – and even unethical – practices, such as the unfair use of zero-hours contracts, can lead to poor morale, high staff turnover and, in some cases, can be dangerous and exploitative.’

Disappointingly, the refreshed NPME23 contains little reference to protecting the instrumental workforce, save for fleeting reference to Music Hubs providing ‘a development offer driven by a clear sense of career progression...’ and that specialist teachers working for a Hub ‘should have training in teaching’ which Hubs should support them to achieve. More concerning is the statement that Hubs must consider ways to ‘make efficiency savings where appropriate’. The ISM has previously argued that the refreshed NPME must not be used as a way of reducing wages and increasing insecurity to make budgets stretch further.

Although the refreshed Plan is ambitious, there are concerns that a sufficient music education workforce doesn’t currently exist to support it. A survey by the BPI in 2019 found that 29% of state schools saw a reduction in the number of qualified music teachers compared with 5% for independent schools.21

DfE figures show that the number of secondary school music teachers fell 15% from 8,043 in 2011 to 6,837 in 2020, although there was a slight increase of 2% in 2021 to 7,003.24

The BPI survey also found that only 44% of music lessons in primary schools were being delivered by specialists. A Teacher Tapp survey in June 2022 found that 21% of primary teachers in state-funded schools said that pupils were taught by a music specialist compared to just over half (53%) who said they were taught by a non-specialist.22 A Gatsby Foundation report, using data from Teacher Tapp, also found that 76% primary teacher respondents felt music would be better taught by a specialist.26

The Impact of COVID-19

The COVID-19 pandemic highlighted the insecurity of the freelance workforce and lack of legal protections and safeguards.

Government support schemes such as the Coronavirus Job Retention Scheme and Universal Credit were often an inadequate safety net. The ISM’s ‘The Heart of the School is Missing’29 report in 2020 demonstrated the devastating impact of COVID-19 on peripatetic teachers’ income and health and wellbeing. Primary and secondary class teachers reported that only 35% of primary instrumental lessons and 28% of secondary instrumental lessons were continuing in person in the 2020/21 academic year, while 10% of instrumental teachers were not teaching at all. Where restrictions still existed for certain instruments, particularly in Scotland, some lessons contained no practical music making. Even when instrumental teachers had reported a return to face-to-face teaching or a mix of face-to-face and online teaching these changes were rarely described as a positive experience, with teachers facing issues with recruitment and retention of pupils and a reduction of income. Just over half of instrumental teachers (53%) felt supported by their schools with just over a third (33%) feeling unsupported. Where instrumental teachers felt unsupported it was often due to a lack of communication and uncertainty as to when and how they could return to teaching in person.

The Refreshed National Plan

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In Scotland, the Fair Work First guidance is designed to encourage and support employers to adopt fair work practices within their organisations and is intended for organisations awarding public sector grants and those in receipt of them. The aim is to balance the rights and responsibilities of workers and employers, including ‘offering security of contract, including hours and earnings, other entitlements including sick pay and pension.’

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Complexity of issues

One of the reasons why addressing the issues faced by the peripatetic workforce is so complex is that they cannot be fixed by adopting a ‘one size fits all’ approach. The Scottish model of employment may not be suitable for everyone, especially those with a portfolio career who do not wish to teach full time and are perfectly happy being genuinely self-employed. However, there may be teachers who were previously employed on a full- or part-time contract who felt they had little choice but to become self-employed and may wish to return to that model. Likewise, not all teachers on a zero-hours contract may want to see them abolished and not all employers might be able to guarantee instrumental uptake from one year to the next, particularly for less common instruments.

What is clear is that the current mixed model of engagement lacks fairness and does not treat the workforce with the respect that it deserves. For peripatetic instrumental and vocal teachers, there is often no financial recognition for experience or qualifications and no means of further progression either financially or professionally. In contrast, those north of the border enjoy the full protections of employment contracts, pay progression, pensions, and paid planning and admin time.

Similarly, in FE and HE some academic staff may be happy to work on an hourly paid basis if they have other streams of income, while others, especially those with long periods of service, may prefer a fixed-term or permanent contract. Clearly an employment contract would not be appropriate for a freelance academic providing a one-off guest lecture, nor should one be used in order for them to be paid. Payment should be prompt and not require a myriad of paperwork and yet both scenarios currently happen.

However, as previously seen, some devolved governments have begun to address the need for fair employment practices, and wider sector organisations supporting and engaging freelancers have also begun to provide policies and guidance, including the Society of Authors30 and Arc.31

Health and wellbeing

Casualisation affects individuals’ health and wellbeing. Researchers have found that underemployment (working less than 30 hours a week when preferring to work more) is associated with increased levels of psychological distress. Those workers experiencing underemployment may suffer from distress as a result of financial strain and limited psychosocial benefits of work such as social contact and support. Links have also been drawn between underemployment, depression, low self-esteem, declines in mental health, lower life satisfaction and well-being.32

The 2016 report Can music make you sick? by Help Musicians UK found that the precarity and insecurity of musicians’ work had the potential to be, and in many cases was, psychologically damaging. Financial instability was also a key source of anxiety, with musicians often feeling that they could not plan for their lives or their futures,33 while 71% of respondents reported experiencing panic attacks and/or high levels of anxiety, with 69% having suffered from depression, suggesting that musicians may be up to three times more likely to suffer from depression compared with the general public. Poor working conditions, difficulty sustaining a living and the inability to plan their time or for their futures were cited by respondents as affecting their mental well-being.34

A report by the University and College Union (UCU) in 2019 found that 71% of respondents believed their mental health had been damaged by working on insecure contracts, while 43% reported their working conditions had harmed their physical health. Respondents also reported difficulty in buying a house or making other long-term financial commitments (33%), in making long-term family plans (33%), in making ends meet (60%) and in paying bills (40%).35

Defining the gig economy

As the Chartered Institute of Personnel and Development (CIPD) stated in its 2017 report: ‘The gig economy has so far proved hard to define, hard to measure and hard to interpret.’

However, they go on to define it as ‘a way of working that is based on people having temporary jobs or doing separate pieces of work, each paid separately, rather than working for an employer’.36

While it has increasingly been used to describe work procured through digital platforms such as food delivery and courier and transport services,37 it has also been used to describe short-term or freelance contracts as opposed to permanent jobs.38

Using ‘gig economy’ purely to describe platform-based work is unhelpful for musicians and other creative freelancers who have long used the term to describe their work. It has also been argued that the term is misleading and distracts from the more concerning issues surrounding the precarity of this kind of work.39

The Office for Tax Simplification (OTS) views the gig economy as independent workers contracting for short-term employments, the sharing economy as generating money by sharing or renting out assets, and the platform economy as using IT systems to facilitate/connect opportunities for gig/sharing.40
Employment status

Employment rights and protections are determined by employment status. While the rights associated with each status are fairly clear, understanding what defines them is often not and may require reference to case law.

**Employees**

The Employment Rights Act 1996 defines an employee as ‘an individual who has entered into or works under a contract of employment’. However, determining this is not as simple as it might appear. To confuse the matter even more, an individual may be an employee in employment law but have a different status for tax purposes.

Employees have the most employment rights, including the right to the National Minimum Wage (NMW) or National Living Wage (NLW), minimum levels of rest breaks and paid holiday, and protection against discrimination. They are also entitled to Statutory Sick Pay, parental leave and pay, minimum notice periods, the right to request flexible working, protection against unfair dismissal, and statutory redundancy pay following a qualifying period. You can be an employee even if you don’t have guaranteed hours.

You are probably an employee if most of the following are true:

- You’re entitled to contractual or Statutory Sick Pay and to maternity or paternity pay
- You can join the business’s pension scheme
- The business’s disciplinary and grievance procedures apply to you
- Your contract sets out redundancy procedures
- The business provides the materials, tools and equipment for your work
- You only work for the business or if you do have another job, it’s completely different from your work for the business
- Your contract, statement of terms and conditions or offer letter (which can be described as an ‘employment contract’) uses terms like ‘employer’ and ‘employee’

**Workers**

Workers have some rights, but not as many as employees (including those related to job security). They are entitled to NMW or NLW and minimum levels of rest breaks and paid holiday. In limited circumstances, they may also be entitled to Statutory Sick Pay and Statutory Parental Pay. Workers are not entitled to minimum notice periods, protection against unfair dismissal or Statutory Redundancy Pay. The work may be casual or irregular and their contract written or unwritten.

You are probably a worker if most of these apply:

- You occasionally do work for a specific business
- The business does not have to offer you work and you do not have to accept it – you only work when you want to
- Your contract with the business uses terms like ‘casual’, ‘freelance’, ‘zero hours’, ‘as required’ or something similar
- You have to agree with the business’s terms and conditions to get work – either verbally or in writing – and you don’t have the ability to change those terms and conditions
- You are under the supervision or control of a manager or director
- You cannot send someone else to do the work the business provides materials, tools or equipment you need to do the work

**Self-employed**

An individual is considered self-employed if they run their business for themselves and take responsibility for its success or failure. If an individual is self-employed, they are not covered by employment law and have very few rights at work. They have certain protections relating to health and safety and discrimination but their rights and responsibilities are covered by the contract they have with a client.

You are probably self-employed if most of the following are true:

- You put in bids or give quotes to get work
- You’re not under direct supervision when working
- You submit invoices for the work you’ve done
- You’re responsible for paying your own National Insurance and tax
- You do not get holiday or sick pay when you are not working
- You operate under a contract that uses terms like ‘self-employed’, ‘consultant’ or ‘independent contractor’

**Why employment status matters**

Knowing your employment status is important because of legal rights attached to it. It is the gateway to key legal rights such as holiday pay but can be a complex area for music teachers. As the ISM Senior Legal Advisor, Nerys Owen, explains, ‘the test used by HMRC to decide whether you are “self-employed” for tax and National Insurance purposes is not the same as the test used to decide what, if any, statutory employment rights you have at work. You can be lawfully paying all your tax and National Insurance on a self-employed basis while at the same time being a worker with statutory rights, such as a right to holiday pay or to protection from discrimination at work.’

Moreover, even where a contract exists stating that an individual is a self-employed contractor, the 2021 Supreme Court ruling in the case of Uber v Aslam means that these documents must be disregarded and the focus must be on how the relationship operates in practice. The way to work out whether someone is likely to be a worker or an employee is to examine all the facts to see how the relationship works day-to-day. If there is a high degree of control, a teacher cannot send a substitute and cannot negotiate their own fees, then they are more likely to be a worker or employee. If the opposite is true and a teacher is able to send a substitute, deals directly with parents and sets their own fees, then they are more likely to be self-employed.

Employment status matters as it can provide protections and rights for music teachers within employment law. Even employees and workers with zero-hours contracts enjoy the rights afforded to them by their employment status.
**What is the government doing?**

**POLITICAL BACKGROUND 2016-2022**

Despite a flurry of interest and parliamentary activity regarding the gig economy and employment law since 2016, there has been no real action in relation to the promises that have been made. It now appears this inaction is a political choice that the government has made in deciding not to strengthen existing protections for the workforce or enact new ones, especially in light of the fair work policies and practices evident in Wales and Scotland.

**The Taylor review**

In October 2016, Matthew Taylor, the Chief Executive of the Royal Society of Arts was commissioned by then Prime Minister Theresa May to lead a review into employment law and the rights of workers. The review was ‘driven by the rise in atypical forms of working, particularly in the “gig economy”’ and had a ‘single overriding ambition’. All work in the UK economy should be fair and decent with realistic scope for development and fulfilment.

The final Taylor review, published in July 2017, found that many people valued the ability to work flexibly but questions arose as to whether workers were adequately protected in these circumstances, particularly if there was an imbalance of power between employers and individuals. The review warned that ‘flexibility must not be one-way with individuals absorbing all the risk’, that ‘employers must not use flexible working models simply to reduce costs...’ and that it was wrong that many people do not know when work will be offered, how much they will earn or what rights they have. Many individuals were reluctant to talk to their employers in case they were penalised as a result, for example by having their hours reduced, and felt that cost was a barrier to pursuing their rights through an employment tribunal. The review called on the government ‘to ensure that flexibility does not benefit the employer, at the unreasonable expense of the worker, and that flexibility is genuinely a mutually beneficial arrangement.’

Concerns were raised regarding the difficulty in understanding individual rights under the current employment status framework and how this could result in the loss of key rights such as holiday pay. It was also found that the way in which the law is interpreted varies widely from case to case and that it was almost impossible to understand how this may apply to an individual’s situation. This was particularly evident when trying to distinguish between worker status (which the review suggests renaming ‘dependent contractor’) and genuine self-employment.

The review called for a clearer definition of ‘dependent contractors’, particularly for casual employment relationships where an individual is neither an employee nor genuinely self-employed, and for the government to revisit the tests for worker status, particularly around the issue of the requirement to perform work personally. It states that, ‘Ultimately, if it looks and feels like employment, it should have the status and protection of employment.’

Finally, the review concluded that outlawing zero-hours contracts would ‘negatively impact many more people than it helped’. However, it also made clear that the individual should not bear all of the risk and that zero-hours workers should be able to request a fixed-hours contract after a long period of time, suggesting that this should be based on the average weekly hours worked during the previous 12 months.

**A framework for modern employment**

In November 2017, the Work and Pensions and Business Energy and Industrial Strategy Committees published a report in response to the Taylor review and proposed primary legislation and a draft Bill to take forward the recommendations that were made in the review.

The joint committees agreed with the Taylor review that increased clarity was needed around employment status, possibly through primary legislation. They also agreed that creating a default model of worker status for organisations with significant dependant workforces would offer better protections for such workers – the duty would fall on the organisation to prove self-employed status rather than the worker having to pursue a legal route to do so. However, they were clear that there should be no ‘unnecessary burdens’ on the genuine self-employed where individuals have chosen this form of work.

The report acknowledged that worker status alone often does not provide more security at work due to fluctuating demands. It concluded that, ‘Companies benefiting from a flexible workforce must ensure that this flexibility is not one-sided, either by guaranteeing hours that reflect the periods worked each week, or by compensating workers for uncertainty.’

In December 2018, the government published the Good work plan which set out how it intended to implement the Taylor review’s recommendations. It committed to:

- ‘a wide range of policy and legislative changes to ensure that workers can access fair and decent work, that both employers and workers have the clarity they need to understand their employment relationships, and that the enforcement system is fair and fit for purpose’

As of January 2022, only seven legislative changes had been made. These include an increase in the maximum penalty for ‘aggravated’ breaches of employment rights (effective 6 April 2019), two changes affecting agency workers, two changes to written statements of employment particulars, a reduction in the minimum numbers of employees who can trigger a formal ‘information and consultation’ request and an extension of the holiday pay reference period from 12 to 52 weeks (all effective 4 June 2020).
Employment bill

A number of promises relating to employment rights were made in the 2019 Conservative Party manifesto and the government announced the introduction of a new employment bill in the December 2019 Queen’s Speech. The bill would:

- Protect and enhance workers’ rights as the UK leaves the EU, making Britain the best place in the world to work
- Promote fairness in the workplace, striking the right balance between the flexibility that the economy needs and the security that workers deserve
- Strengthen workers’ ability to get redress for poor treatment by creating a new, single enforcement body
- Offer greater protections for workers by prioritising fairness in the workplace, and introducing better support for working families
- Build on existing employment law with measures that protect those in low-paid work and the gig economy

However, no further mention of the bill was made in subsequent Queen’s speeches in either 2021 or May 2022. Between 3 March 2020 and 22 March 2022, various ministers have promised 20 times to deliver the employment bill, with unions accusing the government of ‘turning its back on working people’ instead, the government announced the Future of work review led by Matt Warman MP to be conducted in the spring and summer of 2022. The government seeks to build on existing commitments, including those from the Taylor review, and to identify key areas in order to ‘build back better’ from the COVID-19 pandemic.

The impact of casualisation

WHAT THE DATA TELLS US

In a 2021 ISM survey of over 350 peripatetic and instrumental vocal teachers, 41% of respondents described themselves as self-employed, 42% as an employee and 3% as a worker. Concerningly, 15% were unsure about their employment status.

Even when teachers considered themselves self-employed, some hubs and schools were setting the hourly rates or determining who and when they taught. It is not clear if this is merely a misunderstanding of employment law or an attempt to cut costs and avoid employer responsibilities.

Status

In a 2021 ISM survey of over 350 peripatetic and instrumental vocal teachers, 41% of respondents described themselves as self-employed, 42% as an employee and 3% as a worker. Concerningly, 15% were unsure about their employment status.

Even when teachers considered themselves self-employed, some hubs and schools were setting the hourly rates or determining who and when they taught. It is not clear if this is merely a misunderstanding of employment law or an attempt to cut costs and avoid employer responsibilities.

'I'm actually self-employed as far as pay is concerned, but I have little say in how, when and who I teach.'

'It's my view that visiting music teachers who are self-employed are often treated disgracefully by schools. I'm in favour of legislation to give all VMTs minimum guaranteed rights in the workplace.'

'I work 6 or 7 days a week in one school and still have no contract after 12 yrs, no pension, no control over what I charge, no holiday pay etc.'

'I've worked an average of 2 days a week in the same school for over 30 years. No sick pay, pension, holiday pay. Employed staff of my age have begun to retire, I can’t.'

'I'm self-employed but work for a music service. They set the rate. They give me the schools, they can take the schools off me whenever a new term starts.'

'I am considered self-employed and paid directly by the parents. My contract, however, is with the school and they set the pay rates.'

'School determines pay, conditions etc. but says we are self-employed, and doesn’t pay us for holiday etc despite all the control over our work.'
**Rates of pay**

The ISM's annual fees surveys show that the lowest minimum hourly rate reported by self-employed teachers working in schools has fallen by over £10 since 2016 to £16 per hour. However, the highest reported hourly rate has risen by over £20 in the same period. Despite these changes, the average rate remained the same at £32 between 2016 and 2019, rose by £2 in 2020 and again in 2021 to £36.

For employed teachers working in schools, the figures are slightly lower for the average and highest rates, but higher for the lower rate:

<table>
<thead>
<tr>
<th>Year</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lowest rate</td>
<td>£26.64</td>
<td>£27</td>
<td>£30</td>
<td>£31.33</td>
<td>£35</td>
<td>£16</td>
</tr>
<tr>
<td>Average rate</td>
<td>£32</td>
<td>£32</td>
<td>£32</td>
<td>£32</td>
<td>£32</td>
<td>£36</td>
</tr>
<tr>
<td>Highest rate</td>
<td>£38</td>
<td>£39</td>
<td>£40</td>
<td>£37</td>
<td>£57</td>
<td>£60</td>
</tr>
</tbody>
</table>

In a 2021 survey of over 350 peripatetic teachers, 33% of respondents reported that their annual gross income from peris got...
Many teachers are working more hours than they are actually paid for as a result of large gaps in their day due to timetabling restrictions or having to re-arrange lessons at short notice. This can also result in a loss of income where lessons are unable to be re-arranged.

Some schools want me early in the day but the next school can’t accommodate me until a room is free so I have empty time in the middle.

The schools sometime cancel the days when the peris are booked, sometimes with less than 24 hours notice and we don’t get paid if the school cancel.

I could finish teaching earlier if my music service doesn’t leave long gaps between different schools teaching times. It’s unpaid time that I can’t use for anything productive.

I lose money trying to coordinate my hours around different schools. If they give notice of changes to timetable in advance, it’s manageable, but they often don’t and put the onus on me to rearrange or insist you make up the time or don’t get paid.

However many students I have, I have to allocate a day at each school as I have to operate a rotating timetable in two schools so that children miss different lessons each week.

More gaps between each pupil has meant longer working hours for less money.

It takes me 40 hours to earn 20.

Gaps are unpaid. For example, 08.15am start 1800pm finish but with only 4 students between that time. Lessons cannot be scheduled in many academic lessons. I use the time to practice, do admin, too far from home to travel back so a lot of waiting around.

Some peripatetic teachers were even working for free to support their pupils and schools.

I have to do quite a lot of unpaid work as school cannot afford to pay me for all the work I do. This is usually accompanying choirs/concerts/exam but also some teaching.

Holiday pay

The ISM has always maintained that the annual holiday entitlement of VMTs and peripatetic teachers should be calculated in the same way as for any other worker – by taking a week’s pay and multiplying it by 5.6 - yet many employers are calculating holiday pay based on term-time teaching hours only. In November 2021, the Supreme Court heard the case of Harpur Trust v Brazel which is a landmark case on holiday pay. ISM member Lesley Brazel brought a formal grievance against her employer in 2013 after they pro-rated her holiday pay to term-time only as she didn’t teach during school holidays. Harpur Trust based its calculations on Acas guidance, which was designed to work out the holiday pay of casual workers and which has since been withdrawn.

In March 2015, Mrs Brazel launched an employment tribunal claim under the Working Time Regulations. Although she lost her initial case, she appealed and the Employment Appeal Tribunal found in her favour. The case was appealed by Harpur Trust and the Court of Appeal found in Mrs Brazel’s favour in August 2019. The Supreme Court dismissed the Harpur Trust’s appeal on 20 July 2022. The judgment states that, ‘The amount of leave to which a part-year worker under a permanent contract is entitled is therefore not required to be, and under domestic law must not be, pro-rated to be proportional to that of a full-time worker.’

ISM’s peripatetic survey data found that respondents had a very mixed experience of how their holiday pay was calculated if they did receive it.

- Holiday pay is rarely more than 4 weeks and is worked out on an average over the year in most schools, which does not reflect the variation in pay due to enforced reduction in teaching in the spring and summer term.
- Every drop in pay affects my holiday pay and pension contributions.
- They [the school] have recently changed the way that holiday is paid so that I have even less in my monthly pay during term.
- Holiday pay is pro-rated to term time only (16%)
- Not sure, but fairly certain holiday pay is not pro-rated to term-time only (3%)
- Don’t know how holiday pay is calculated (19%)
- No, I get 5.6 weeks holiday pay a year, not pro-rated (4%)
- Not paid any holiday pay (36%)
- Other (7%)
Pension

Where peripatetic staff were enrolled in a workplace pension, this was not necessarily the Teachers’ Pension Scheme (TPS) which many teachers were eligible for when employed full- or part-time through music services. After the government increased employer contributions to the TPS by 43% in 2019, hundreds of independent schools left the scheme. State schools were not affected in the same way as the increase was covered by the government.

Changes to the TPS and the subsequent withdrawal by some employers has affected both the terms and conditions and pay of some peripatetic teachers. Pension contributions are also affected if teachers are paid hourly rather than salaried, and for fewer than 52 weeks of the year.

‘Regarding the pension contributions from my employer, they are currently in consultation about coming out of TPS. I have to take a percentage pay decrease from my wage if I want to stay in the TPS.’

‘Teachers’ Pension Scheme government directive has influenced pay hugely. One school has required resignation and re-employment on a new contract so I resigned after 20 years there. Another reduced salary in order to pay for the increase.’

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Room rental & admin fees

The ISM annual fees survey shows that the number of self-employed peripatetic teachers paying for room hire has gradually increased by 5.5% since 2018. However, the number of self-employed peripatetic teachers paying admin fees has fallen 0.8% since 2019. Some schools are charging room hire as they believe this helps to prove the self-employed status of the teachers.

<table>
<thead>
<tr>
<th>% paying</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Room hire</td>
<td>16%</td>
<td>17.5%</td>
<td>20.8%</td>
<td>21.5%</td>
</tr>
<tr>
<td>Admin fees</td>
<td>3.5%</td>
<td>3.4%</td>
<td>2.7%</td>
<td></td>
</tr>
</tbody>
</table>

‘Music service has come out of Teachers’ Pensions and had us enrolled on a lesser scheme where employer contributions are much lower and employee contributions are variable, but need to be higher to make up the shortfall.’

‘We are enrolled in a workplace pension, as opposed to employed academic staff who are in the TPS. Pension is only paid on earning for one-to-one lessons; ensemble coaching/conducting and concert participation are classed as “expenses” and do not attract pension payments.’

‘The case for change

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Lack of professional respect

A number of peripatetic teachers spoke of their feelings of being undervalued – not only through their pay and conditions but the way they were treated in schools. There was also a perceived lack of understanding from school staff about the nature of peripatetic teaching in multiple schools and one-way flexibility.

‘The way we are paid and the way we are expected to work is very demoralising.’

‘I love my job but I often feel undervalued...’

‘This discourteous attitude to VMTs can make one feel unappreciated, under-valued and really begins to erode one’s self-esteem. My confidence was knocked in terms of applying for better paid posts that I was fully qualified for. When you don’t feel that a previous workplace valued you, it is harder to recommend yourself to a future employer.’

‘Working at more than one school makes you a stranger in all of those schools. Schools never treat you as a member of staff, more like a contractor that walks through their doors once a week. Occasionally we get treated with less respect and they assume we can be spoken to as “less” than an adult! Let alone a teacher.’

‘The school refused to even pay by BACS and instead we had to rely on a cheque written out – the pay was very haphazard and I often had to wait 2 months to receive pay.’

‘I was forced by the school to join [named] recruitment agency. This engendered hours of unnecessary work and complication, the process for getting paid is also time-consuming and confusing and they take 6% fees for finding me the job I have had for 27 years!’

‘The school take 10% from me as a finder’s fee/ use of room. Because there is no contract, they could suddenly decide to change the percentage. I just hope they don’t.’

‘I have worked in both state and independent schools. Both have taken percentages of my pay for admin and room provision despite it being a school where every other teacher gets their own classroom and admin done for free.’

‘I find room hire charge at £2.20 an hour exorbitant. I have tried to challenge it unsuccessfully. The schools say they have to charge in order to abide by regulation to class its VMTs as self-employed.’

‘I am self-employed and am charged two different room hire rates by the two local schools I teach in. One school charges £5 per hour, the other £2.50 per hour.’

‘Fees have not been increased as a new charge has come in for room hire which has been passed on to the parents. This has resulted in a 22% loss of pupils.’

‘My main income state school has just started charging room hire. I negotiated down from £7ph to £3ph. This has caused a drop off in pupils and another 8 will give up by the end of term.’

‘My pension is based only on a 30-week year, this means my pension is very low despite working 2 very long days a week in the same school.’

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Insecurity

ISM survey data shows that 72% of respondents were on a zero-hours contract. This often resulted in a great deal of uncertainty, particularly at the start of each academic year, as well as financial insecurity. This has huge implications for housing, childcare and being able to pay bills. Even when teachers were salaried, there was still a feeling of insecurity.

Sets of quote boxes, each with a primary bullet point.

- ‘Can’t rely on income at all.’
- ‘Frequently unable to pay bills.’
- ‘It creates massive instability and monetary insecurity.’
- ‘Although salaried, work doesn’t feel secure, it can still be cut back.’
- ‘I am seriously considering leaving this profession and retraining due to the financial insecurity of this job as it is today.’
- ‘Private school VMT work is far more precarious in terms of stable income…’
- ‘Although I understand pupil numbers can vary it would be useful for music service employees such as myself to have a little more security with hours…it’s quite demeaning not really know if next term is going to cause financial fluctuations. I now take on (probably) too much work to offset pupil fluctuations rather than get into financial dire straits. This means I spend less time with my family. I now teach privately in the evenings on top of working 5-6 hours a day in a school. There’s admin on top and I’m permanently exhausted.’
- ‘[pupil numbers] can really be the “make or break” of whether the work becomes viable or not.’
- ‘I currently have to hope/guess that I will have a full day in September and book childcare for this day.’
- ‘Year 11 and 13 students leave early, affecting my pay for the last term.’
- ‘I am not guaranteed an amount of work, so it would be very easy for my pupils to gradually be reduced if I fell out of favour.’
- ‘I’m not eligible for sick pay at either of my PAYE jobs and not being guaranteed a certain monthly income is very stressful.’
- ‘I would like to see schools and music services offer equal terms to those which they expect from their teachers… and that there is safeguarding against exploitation of teachers at this difficult time when people are frightened of losing work.’

Fluctuations in pupil numbers during the school year added to the feeling of insecurity and many peripatetic teachers were at a disadvantage by teaching pupils in exam years when they left for study leave.

- ‘I need to try to pay my mortgage…’
- ‘I often get given GCSE and 6th form students. When they stop lessons early for the summer exams I’m often left with a big drop in income…’
- ‘I’m not guaranteed any amount of work either as sick pay at either of my jobs is not paid. It would be very easy for my pupils to gradually be reduced if I fell out of favour.’
- ‘Year 11 and 13 students leave early, affecting my pay for the last term.’
- ‘My pupil numbers (and pay) dive in May due to study leave.’

Income could also be affected by the amount of notice given by parents when pupils stopped lessons and to what extent these minimum periods were enforced by schools and music services. Almost half (48%) of respondents to the ISM survey normally received half a term’s notice of changes to pupil numbers and 18% received a term’s notice. However, these notice periods were not always enforced by schools and it wasn’t always clear how some schools were applying them, particularly when pupils moved between sites (e.g., junior to senior school) this obligation does not apply. I currently have 6 hours of lessons where this applies and I will not know if the children have transferred their lessons to the next school (from Sept) until the end of August.

- ‘Over the summer holidays the notice period is waived so September numbers are very uncertain.’

Some peripatetic teachers were also concerned about the implications of illness or falling out of favour and their hours being reduced or them being replaced. Others were willing to accept fewer hours in the hope that pupil numbers would increase as some work was better than no work.

- ‘When illness hits it isn’t just the teaching that becomes impossible, it’s the work around it also and loss both financial and in terms of feeling safe in employment are felt. More protection for VMTs and peris is critical to the financial and overall welfare of employees and to the equality of the workforce.’
- ‘When illness hits it isn’t just the teaching that becomes impossible, it’s the work around it also and loss both financial and in terms of feeling safe in employment are felt. More protection for VMTs and peris is critical to the financial and overall welfare of employees and to the equality of the workforce.’
- ‘There seems to be nothing to protect a minimum number of hours for working at that school, but I hang on when numbers are lower, just to keep the work.’
- ‘During the pandemic the music service have waived the half term notice period for pupils stopping lessons.’

‘I am not guaranteed an amount of work, so it would be very easy for my pupils to gradually be reduced if I fell out of favour.’
Casualisation in higher education

In addition to the casualisation of the instrumental and vocal teacher workforce, there has been increasing casualisation within Higher Education (HE). As with peripatetic teachers working in schools, this takes many forms including pay and conditions, insecure contracts and unpaid work.

Research by the University and College Union (UCU) found that in 2021 one third of all academics working in academia were employed on fixed-term contracts, 29 institutions employed at least five academic staff on zero-hours contracts (equating to a total of 3,545 staff), 41% of academic staff were on hourly-paid contracts and 66,115 academic staff were employed on ‘atypical’ contracts. The report states that, ‘Casualisation remains a problem for all academic staff groups but the use of fixed-term contracts for research staff, and zero-hours and hourly-paid contracts for teaching-only staff is endemic.’ UCU also found that hourly-paid staff often had to wait long periods of time to be paid and that the amount paid was often incorrect. Casualised staff also reported that they often did unpaid work in the form of preparing classes, marking work or giving feedback.

In an earlier report in 2019, UCU found that members on casualised contracts often did not choose to be. Of those on fixed-term contracts 97% said they would prefer to be on a permanent contract and 80% of those on hourly-paid contracts said they would prefer to be on a contract that guaranteed hours. Of over 3,800 survey responses:

- 60% of respondents said they had struggled to make ends meet
- 40% of respondents said they had struggled to pay bills
- 83% of respondents said that their insecure contract made it hard to make long-term financial and family plans
- 71% of respondents said that their mental health had been damaged by working on insecure contracts
- 85% of respondents had considered leaving the sector, with the main factor being job insecurity

However, this is not a new phenomenon. Evidence given by the University and College Lecturer’s Union NATFHE to the Education and Employment select committee’s inquiry into part-time working in 1999 shows that the casualisation of staff was already embedded in the sector. The introduction of third-party providers in FE led to a number of colleges dismissing all their part-time staff and re-engaging them as self-employed lecturers via third-party providers, often on lower hourly rates of pay. Although some HE staff were employed part time on fractional contracts, a large number were on hourly-paid contracts without the contractual benefits of permanent staff. The evidence from NATFHE states that, ‘Further and Higher Education are amongst the most casualised sectors in the entire UK economy’ and goes on to explain that, ‘The chief driving force behind both the increase in the number of part-time staff employed and changes to the modes of employment of part-time staff has been the financial constraints faced by their employing institutions.’

The ISM spoke to a number of academics working within HE music departments, who all echoed the issues outlined by the UCU.

A recurring theme was the difficulty in visiting staff getting paid – either as freelancers receiving the payment or as university staff seeking to provide payment. Frequently, financial systems do not appear to be set up to pay for visiting, self-employed staff resulting in multiple emails back and forth, complex procedures for proving identity, status and bank details and long waits for payment. In one case, a visiting freelancer had not still not been paid by a university nearly 18 months after the event. Others had simply written off some payments that had taken too long.

Insecure contracts, poor treatment of staff and issues with funding were also highlighted. Some HE staff spoke of the erosion of numbers of full-time equivalent roles with a move to more casual contracts as a result of budget constraints. One spoke of an ‘incredibly gradual’ culture of cutbacks and a ‘cull’ of full-time staff halving the numbers in one academic year. Another mentioned the erosion of one-to-one tuition over the past 25 years. There was feeling overall that HE was now being driven by money over everything else – the focus was less on student experience and more on universities as commercial businesses with the students as customers.

It was felt that some post-graduate students employed to teach on courses could face exploitation as they accepted poor pay and conditions in the hope of a permanent contract, only to be replaced by a new set of post-graduate students the following year. Hourly-paid lecturers were often being asked to do work associated with senior lecturer roles and others were afraid to complain as their roles were vulnerable and they were frightened of losing their employment. There was also a lack of recognition in some cases of long periods of service and no attempt to move staff from hourly-paid roles to more secure types of contract. In some cases, academics were applying for grants for long-term research projects despite only being employed on short, fixed-term contracts.
The findings in this report show that peripatetic teachers and academic staff working in HE and FE are negatively impacted by unfair and inconsistent work practices, insecure contracts and a lack of professional respect.

Drawing on our data and a range of reports from devolved nations and the wider sector, the ISM sets out the following recommendations:

1. The government should ensure that there are clearer statutory definitions of employment status and support widespread awareness and understanding of employment rights.

2. Organisations should acknowledge that freelancers face a range of challenges that salaried staff do not, do not benefit from the same terms and conditions and are often subject to unfair working practices.

3. Organisations should commit to reducing professional isolation and improving respect for music teachers and provide support and opportunities for visiting staff to connect with others.

4. Organisations should expect to pay self-employed staff higher rates than salaried staff to reflect the fact that they are responsible for their own sick pay, holiday pay, pension and training costs.

5. Organisations should ensure that non-consensual self-employment is not used as a means of reducing their own costs and individuals’ pay, and removing employment rights.

6. Where flexible working is agreed, the risks should not be one-sided or passed solely to the worker – contractual stability should be a core organisational objective.

7. Organisations distributing public money should carefully consider the levels of casualisation as part of the application process and interrogate the reasons for this. Organisations in receipt of public money should explain the use of casualised contracts and outline how they intend to reduce their use as part of any application.

8. Organisations should be aware of the amount of unpaid work created by inflexible timetabling, travel and administration and should do everything possible to reduce this.

9. Peripatetic teachers should receive a level of pay which reflects their qualifications and experience and allows for pay progression.

10. Organisations should ensure that their staff are supported to access regular and relevant high-quality subject-specific CPD.

11. Self-employed freelancers should be paid promptly for one-off events on receipt of an invoice and not via an institution’s payroll.

12. Organisations should ensure that the government commits to reducing professional isolation and improving respect for music teachers and provide support and opportunities for visiting staff to connect with others.

13. Zero-hours contracts should not be used if there is a regular pattern of work or a regular number of hours on offer. Nor should they be used if an individual wants an employment contract that guarantees a minimum number of hours.

14. Organisations should use zero-hours contracts only if they are jointly agreed with staff, where staff are able to request guaranteed hours, workloads are greatly variable and staff have comparable employment rights to other staff; zero-hours contracts should be reviewed at least annually and where possible staff moved to a permanent or fixed-term contract.

As a result of the Supreme Court ruling in the case of Harpur Trust v Brazel on 20 July 2022, employers of peripatetic instrumental teachers on permanent contracts working for part of the year (even if they are zero hours contracts) must calculate holiday pay by taking the average weekly pay and multiplying it by 5.6. The department for Business, Energy and Industrial Strategy (BEIS) updated its guidance in 2020 and includes information on how to calculate holiday pay for term time only workers. This BEIS guidance reflects the Court of Appeal judgment and is referenced in the Supreme Court judgment.

This will have obvious financial implications for employers, particularly Music Hubs. The government has known this since the case reached the Court of Appeal in 2019 but has failed to put adequate funding in place to ensure Hubs can fulfil their legal obligations. In light of this ruling, the government must now act to increase the amount of money given to Hubs in the new investment process. As the ISM stated in Music: A subject in peril? ‘The [refreshed] Plan must not be used as a way of reducing wages and increasing insecurity to make budgets stretch further.’
Endnotes


The ISM is the UK’s largest non-union representative body for musicians. We are also a subject association for music. Since 1882 the ISM has been dedicated to promoting the importance of music and supporting those who work in the music profession. The ISM supports over 11,000 members across the UK, many of whom work in music education, and who have continued to teach throughout the pandemic. The ISM provides the secretariat to the All-Party Parliamentary Group for Music Education, and we co-authored its seminal report, *Music Education: State of the Nation*, published in 2019. Since then, the ISM has researched the impact of COVID-19 on music in schools across the UK, and in December 2020 we published *The heart of the school is missing: Music education in the COVID-19 crisis*. Our most recent report, *Music, A subject in peril?*, published in March 2022, focused on music education in English schools.

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