

Advice for supply teachers who are disabled on staying safe during full opening of schools

Supply teachers have a vital role to play in raising and maintaining high educational standards in schools. Campaigning to secure professional entitlements for supply teachers is a key priority of the NASUWT, together with securing decent pay and working conditions for all supply teachers.

The NASUWT is committed to ensuring that all individual members, including supply teachers, have the information they need in terms of health and safety and the responsibilities on local authorities, employers and employment businesses (i.e. supply agencies) in respect of COVID-19.

The purpose of this checklist is to assist supply teachers to stay safe and to ensure you are aware of your responsibilities in terms of keeping yourself and others safe, given the announcement of the removal of the remaining COVID-19 restrictions following the publication of the Westminster Governments living with **COVID-19 response**.

It should be noted that this checklist should be considered in line with the comprehensive advice, health and safety checklists and other associated guidance produced by the Union on the reopening of schools, including that specifically addressing issues of health and safety for supply teachers, which can be found at: <https://www.nasuwt.org.uk/advice/health-safety/coronavirus-guidance/full-reopening-of-schools/full-reopening-of-schools-wales.html>.

When undertaking assignments, you should ensure that you are fully informed about any health and safety issues.

Indeed, where schools utilise supply teachers, there should be an expectation that the supply teacher is provided with access to information on the safety arrangements (i.e. risk assessments) and that these are provided as soon as possible after a supply teacher is booked for an assignment.

The Health and Safety at Work Act 1974

The Health and Safety at Work Act 1974 (HASAWA) places a responsibility on all employers to ensure, as far as is reasonably practicable, the health and safety of all employees and non-employees in their workplace. This includes identifying and assessing risks to health and safety, and steps to reduce or eliminate these risks, so that all those working in a school are safe, including supply teachers with a disability. This applies to COVID-19 in the same way as it would to any other hazard.

The employer is required to consider whether they have taken 'reasonable steps', so far as reasonably practicable, if necessary by amending their health and safety policies, procedures and practices, to ensure that employees and non-employees (i.e. supply teachers) with disabilities are not placed at a substantial disadvantage.

Under the Management of Health and Safety at Work Regulations 1999, employers need to assess the risks to the health and safety of employees and others who may be affected by their activities, including supply teachers. This may require employers taking advice from other professionals on specific risks (e.g. medical professionals) for supply teachers with a disability.

Assessments may be needed at different levels. At the **generic level**, they should examine what reasonable steps can be taken to minimise health and safety risk generally, while avoiding disability discrimination. An **individual risk assessment** will relate specifically to the member of staff, including a supply teacher with a disability.

However, it should be recognised that having a disability does not necessarily mean that someone has an increased risk of contracting the COVID-19 virus or having a serious illness. Indeed, it will depend very much on the nature of the disability as to whether or not a COVID-19-specific individual risk assessment is required. A COVID-19-specific individual risk assessment would therefore only be necessary if the disability puts the individual at increased risk.

Where there are specific health and safety risks, including to supply teachers with a disability, these should be treated on a case-by-case basis.

Under the HASAWA, there is a joint responsibility between the provider (i.e. the supply agency) and the end user with regards to the health and safety of agency workers, such as supply teachers with a disability.

This applies equally if you are supplied via an umbrella company, as they are legally your employer.

Agencies and umbrella companies should take reasonable steps to identify and satisfy themselves concerning health and safety issues in respect of the schools in which you may be expected to undertake assignments, including the appropriate steps to mitigate the risks associated with COVID-19 for supply teachers with a disability.

This should be provided to you by the agency in enough time to familiarise yourself with the situation with that employer at the earliest possible opportunity after the booking is made.

There is a need for close co-operation between schools and other relevant employers, such as the supply agency or the umbrella company, particularly if supply teachers must follow the school's arrangement for managing and minimising risk based on the system of controls in place.

The Union believes it is therefore wholly appropriate to liaise with a contact person to ensure that they can talk you through and familiarise you with the arrangements they have in place for contractors or temporary workers in the school.

The agency should also ensure that you are provided with the details of how to raise any health and safety concerns in the workplace.

Details of any adjustments made for your disability access needs (if appropriate) should be agreed in advance of your first day of work.

The role of the 'competent person'

A 'competent person' should be someone in the school or college who has sufficient training and experience or knowledge to assist in the process properly.

The level of competence required will depend on the complexity of the situation, but there is an expectation that the 'competent person' is able to offer the specific advice and guidance required.

This can include the employer or someone within the school or college. If this is the case, you should enquire as to their experience and expertise so you can be satisfied that any and all concerns you have regarding your situation can be addressed accordingly.

Your duties as a supply teacher

Whilst your agency and the school have responsibilities in regards to your health and safety, you also have a duty to take reasonable care for your own health and safety and that of other people who may be affected by your actions at work, particularly in regards to COVID-19.

You must co-operate with your agency and the end user where you are working, including by providing them with any information which may necessitate the provision of a risk assessment before you undertake an assignment with a school.

For example, if there is a concern over your situation which makes it difficult for you to undertake an assignment in a school, or which should be disclosed to a school prior to an assignment, then you should disclose this as soon as possible.

Once disclosed to the agency, it has a statutory obligation to consider any measures necessary to enable you to undertake each assignment safely. If you are subsequently denied access to work after disclosing a disability, this may be unlawful, and members are strongly encouraged to contact the NASUWT immediately for advice.

An **individual risk assessment** will relate specifically to the member of staff, including a supply teacher with a disability.

The Conduct of Employment Agencies and Employment Businesses Regulations 2003

Regulation 18 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 also places an expectation on agencies to obtain and provide information about a school, including any risks or health and safety issues which have been picked up following a thorough risk assessment, including those related to COVID-19.

Furthermore, if an assignment being undertaken specifies no notice period, then the Conduct Regulations contain provisions which permit you to leave the school at any time, should you feel unsafe, and still be paid for the work you have undertaken.

The Equality Act 2010

The provisions under the Equality Act 2010 and corresponding Public Sector Equality Duty (PSED) apply to supply teachers in the same way as any other employee. The duties under this legislation apply to England, Scotland and Wales.

Under the PSED, school management and governing bodies are required to have 'due regard', when making decisions and developing policies, to the need to:

- eliminate discrimination, harassment, victimisation and other conduct that is prohibited under the Equality Act 2010;
- advance equality of opportunity between people who share a protected characteristic and people who do not share it;
- foster good relations across all protected characteristics – between people who share a protected characteristic and people who do not share it.

As a supply teacher, you are protected from discrimination, victimisation and harassment under these provisions. All school risk assessments should be equality impact assessed to ensure that there are no discriminatory provisions or practices for supply teachers with protected characteristics, such as a disability.

It is advised that you get clear written evidence of any offer of supply work before informing the employer of your disability. If, following your disclosure, the offer of work is suddenly removed, you should immediately contact the NASUWT.

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