

# Workplace Representatives' Handbook



**England**

## A message from the General Secretary



Dear Member

NASUWT – The Teachers’ Union – is proud to speak with the voice of the profession, representing teachers and headteachers across the UK. At every stage of your career, we are committed to securing fair, safe and healthy workplaces for all teachers.

As an NASUWT Representative, you are at the heart of this work. Your role is vital in supporting members, strengthening workplace organisation and ensuring teachers have a strong, collective voice where it matters most.

This handbook has been developed to support you in that role. It brings together key guidance on organising, terms and conditions, equalities, health and safety and wider union activity.

It also directs you to further NASUWT resources, relevant legislation and practical tools to support your work.

You are never alone in this role. Your Local Association Secretary and Regional Centre are there to provide advice, guidance and support whenever you need it.

We hope you find this handbook a valuable and practical resource, both during your NASUWT Workplace Representatives training and in your day-to-day activity. Further information is available at [www.nasuwat.org.uk](http://www.nasuwat.org.uk).

Thank you for everything you do to support members and to strengthen our union.

Best wishes

*Matt Wrack*

Matt Wrack  
**General Secretary**

The information contained within this handbook is complemented by the following:

*Health and Safety Representatives' Handbook*  
*Casework Code of Practice*  
*Local Association Handbook*

## Contents

The Role of the NASUWT Representative	6
Training	10
Organising in the School/College	14
Appointment of NASUWT Representatives	18
NASUWT Representatives' Rights	19
Consultation and Negotiation	20
Dealing with the Employer	21
Using the PIPO approach	23
Services for Members	26
Is there anything else I should know about the NASUWT?	28
Accidents at Work	30
Allegations	31
Assaults	33
Budgets	35
Bullying	39
Capability	41
Class Size	44
Contract	45
Cover	50
Curriculum and Assessment	51
Disciplinary Action	52
Disclosure and Barring Service	54
Educational Visits and Learning Outside the Classroom	57
Equal Opportunities	59
Equal Pay	62
Family Leave (time off for family and dependants)	64
Flexible Working	65
Governing Bodies	66
Grievance	68
Induction	69
Inspections	70
Job Descriptions	71
Maternity, Paternity, Shared Parental Leave, Parental Leave and Adoption Leave	72
Medical Matters	76
Meetings	77
Pay	78
Pensions	79
Performance Management	80
Recognition	81
Redundancy	82
Sick Pay and Sick Leave	85
Stress	86
Violent and Disruptive Behaviour	87
Working Time	88
Work/Life Balance	89
Appendix 1 Model Agreement: Arrangements for Joint Consultation	91
Appendix 2 Model Agreement for Academies in England	95
Appendix 3 NASUWT Representative Incident Log	103

# The Role of the NASUWT Representative

**NASUWT Representatives lead the Union in the workplace by:**

## **Organising:**

- building the Union team within the school (Representative; Deputy Representative; NASUWT Health and Safety Representative; Learning Representative; NASUWT Staff Governor; Workplace Contact);
- organising members to act collectively to support individuals facing difficulties and to campaign around workplace issues;
- recruiting teachers, including new teachers and student teachers on their work placements, so that the Union grows stronger;
- playing an active role within the Local Association;
- encouraging attendance at union training courses to improve members' knowledge and skills.

## **Communicating:**

- keeping members informed by circulating to them the NASUWT national and local information;
- holding regular and accessible meetings with members and informing the school management of the NASUWT policies and the collective view of members;
- keeping the Local Association informed of developments by maintaining regular contact with the Local Secretary, attending Local Association meetings to find out what is happening in other schools and sharing what is happening in their own;
- ensuring that all members of the school workforce are aware of the work of the Union through the prominent display of NASUWT materials;
- helping to ensure that the Union records are kept up to date;
- the NASUWT noticeboard can be a crucial way of communicating with both your members and school management. It is important that the full range of the Union's work for all its members is covered. This could include the NASUWT reporting to schools, health and safety information, training opportunities, equalities information, Local Association newsletters and conferences and events.

## **Representing:**

- raising with management the concerns of members;
- advising and supporting individual members in the workplace on employment-related matters.

**NB.** The law requires those representing members in grievance or disciplinary hearings to be accredited by the Union; see the Code of Practice on casework.

## Developing good workplace relations:

The NASUWT Representative promotes positive, fair and equitable workplace relationships in their school or college by:

- effective representation of the members' collective voice;
- contributing to a working environment that values every member of the workforce;
- encouraging managers and employers to consult and negotiate.

**Whenever possible, the NASUWT Representative defuses problems and discriminatory situations before they arise.**

Be confident in your role and check with your Local Association Secretary if you are unsure about any course of action. Never advise a member to be in breach of contract. Only the National Action Committee of the National Executive can authorise industrial action. If members feel that a stand must be taken, contact your National Executive Member through the Local Association Secretary as early as possible.

## Making Use of your Resources

**Key resources for the NASUWT Representative include:**

- the NASUWT Representatives' Handbook;
- national and local reports and updates;
- NASUWT advice and guidance;
- NASUWT policy statements, press releases, research and surveys;
- the NASUWT's website: [www.nasuwt.org.uk](http://www.nasuwt.org.uk).

**Information is published for all members:**

- *Teaching Today*, the magazine published by the NASUWT, is sent to members' home addresses regularly throughout the year. If a member is not receiving a copy, they may have changed address without telling the Union. Simply asking members whether they receive *Teaching Today* will help you update membership records;
- Local Association newsletters should be produced and distributed to schools. These cover local issues and matters relevant to, for example, the local authority (LA).

In addition, another source of information you may find useful are the bulletins that the Union publishes from time to time, such as the Health and Safety Representatives Bulletin.

## Keeping records

An essential function of the NASUWT Representative is to keep accurate records of significant incidents in the school. These should include:

- any complaint made to you by a union member;
- all incidents that may involve discrimination or prejudice;
- any incident of disruptive pupil behaviour reported to you (or of which you are aware);
- what is said in any meeting you attend as an NASUWT Representative;
- meetings you hold with members.

### **Records should always contain:**

- the date;
- the names of those involved;
- an account of the event/incident/meeting (including any outcome);
- a note of any action/decision you have taken and any advice given.

Accurate records will help you solve problems. For example, you will be able to show exactly how many times when, where and how a pupil has behaved in a disruptive way, or how many times the boiler has broken down at the school.

Your records may become important in the future if matters are not solved at school level and if other NASUWT Representatives, such as the Local Association Secretary or the Regional Official, become involved.

**As an NASUWT Representative, you should expect to be provided with a lockable drawer or filing cabinet to store confidential and sensitive information such as members' statements and incidents.**

Overleaf is an example of an Incident Log that you might adapt for your own use. (A blank copy is in Appendix 2.)

<b>NASUWT Representative Incident Log</b>	
<b>Date:</b> 25 September 2021	
<b>Nature of incident:</b> Staff harassment	
<b>Identity of those involved:</b> M Windridge plus pupil, JT, in Year 11	
<p><b>Report:</b></p> <p>Martha Windridge received an e-mail to her school account at 9.10am from an e-mail address – ‘sue12132@hotmail.com’.</p> <p>The e-mail was abusive and called her ‘crap’ and a ‘retard who isn’t fit to be a teacher’.</p> <p>Later, during the lunch break, around 12.40pm, a group of girls were laughing and shouting on the field. Martha overheard them talking loudly about ‘cripples’ and she heard JT shout ‘there’s the retard!’</p> <p>Martha is very upset and feels the e-mail must have been sent by one of this group of pupils, probably pupil JT.</p> <p><b>Action taken:</b></p> <p>In the afternoon, visited the deputy headteacher responsible for staffing issues along with Martha and informed them of the incident. They are going to investigate where the e-mail came from.</p> <p>Have contacted Local Secretary for further advice.</p>	
<b>Signed:</b> Joe Dornan	<b>Date:</b> 26 September 2021

# Training

## Courses for NASUWT Representatives

### NASUWT WORKPLACE REPRESENTATIVES

This two-day course equips NASUWT Representatives working in schools covered by the School Teachers' Pay and Conditions Document (STPCD) and the Conditions of Service for Teachers in England and Wales (the 'Burgundy Book') with the essential knowledge, skills and confidence needed to carry out the role of NASUWT Workplace Trade Union Representative. This is a perfect opportunity to mix with other colleagues working in similar circumstances and to discuss common problems with a skilled tutor.

Following a successful completion of the course, participants will be accredited as NASUWT Workplace Representatives.

### NASUWT REPRESENTATIVES: CASEWORK

Dealing with members' problems can be challenging. This course focuses on skills essential in successfully handling the more complex problems that come the way of Local Association Caseworkers. The course covers how to deal with problems in a systematic manner; how to interview members; how to research documents; and how to assemble a 'case'. There are opportunities to discuss issues with experienced tutors.

### DISCRIMINATION CASEWORK

This essential one-day course will equip caseworkers with practical skills and knowledge for identifying and tackling discrimination cases. The course will cover the Union's legal avenue for addressing discrimination casework as well as an overview of discrimination law and how this should be applied in practice. It includes practical case studies on identifying the different strands of discrimination and the prohibited conduct to be applied to each case.

Due to the importance of the discrimination in casework, this course can also be attended by Local Association and Federation Officers. Further clarification on attendance on this course should be sought from the Equality and Training Team at: [equalityandtraining@mail.nasuwt.org.uk](mailto:equalityandtraining@mail.nasuwt.org.uk).

### ACCREDITATION OF NASUWT CASEWORKERS

Completion of the **NASUWT Workplace Representatives and NASUWT Representatives: Casework and Discrimination Casework** courses will secure NASUWT casework accreditation. NASUWT casework accreditation is time-limited for three years, so it is imperative that Casework Representatives keep their skills and knowledge updated through attending relevant casework briefings, workshops and seminars.

### NASUWT REPRESENTATIVES: NEGOTIATION

Negotiation is a skill central to the role of any trade union representative. This activity-based course teaches the theory and practice of negotiation in a structured and practical way. Research into successful negotiating strategies is drawn upon and will inform discussions and activities.

The course allows NASUWT members to practise and develop negotiating skills in a safe and supportive environment. Those who have completed the **NASUWT Workplace Representatives** course, or are already experienced NASUWT-accredited caseworkers, are eligible to apply for a place on this course.

This course requires a minimum of six participants.

\*\* Please note that this course is not suitable for members teaching in Northern Ireland.\*\*

## **NASUWT REPRESENTATIVES: HIGHER LEVEL CASEWORK**

This is a course for experienced NASUWT caseworkers. Using a mixture of simulation, presentation and discussion, participants deal with a complex and serious issue on behalf of a fictional member. In the process, caseworkers examine the nature of difficult decisions that have to be made; how to use procedures effectively; and how to access the Union's legal services appropriately.

Applicants will have already completed the **NASUWT Representatives: Casework** course and have experience of handling members' cases. The course requires at least three participants to run.

\*\* Please note that this course is not suitable for members teaching in Northern Ireland.\*\*

## **NASUWT REPRESENTATIVES: ADVOCACY**

After developing the skills and competencies necessary to represent a member, the member's case may have to be presented and argued before a third party, such as a governing body.

This course teaches the practical skills of organising and presenting a case orally; how best to argue the case; and how to question witnesses. Applicants will be expected to have completed the **NASUWT Representatives: Casework** course. The course needs at least four participants to run.

## **FAST-TRACKING OF CASEWORKERS**

From time to time, it becomes apparent that, due to a shortage of caseworkers, a member may need to be fast-tracked through the casework accreditation process. Where this is the case, support MUST be sought from the member's National Executive Member before a place on the courses is granted.

For clarification on this, email the Equality and Training Team at: **equalityandtraining@mail.nasuwt.org.uk**.

## **THE STRUCTURE OF THE NASUWT TRAINING PROGRAMME**

The NASUWT programme of training courses is structured in levels. There are introductory courses for members and representatives, courses aimed at school- and college-based representatives, and higher-level courses for those who are more experienced, working across LAs, or local officers. Representatives will normally complete a course at each stage before progressing.

Representatives can undertake the following courses:

**NASUWT Workplace Representatives**

**NASUWT Workplace Representatives: Independent Schools**

**NASUWT Representatives: Casework**

**Discrimination Casework**

**NASUWT Representatives: Higher Level Casework**

**NASUWT Representatives: Negotiation**

**NASUWT Representatives: Advocacy**

The NASUWT offers a wide range of courses and events for all members.

### **Local Association Officers**

- Organising in the Local Association;
- Local Secretaries Course: Stage 1;
- Local Secretaries Course: Stage 2;

- Equality Officers;
- Local Treasurers' Course – Training can be arranged by emailing the team at: **finance@mail.nasuwt.org.uk**;
- Benevolence Officers' Course – Training can be arranged by emailing the team at: **Legal.Casework@mail.nasuwt.org.uk**;
- Benevolence Officers' Briefings (Annual event).

### **Health and Safety**

Health and Safety Representatives can undertake the following courses:

- Health and Safety Representatives (Stage 1);
- Health and Safety Representatives (Stage 2);
- Health and Safety Organising (Stage 3).

There is also an annual H&S Seminar as well as separate H&S Conferences in each of the devolved nations.

### **Union Learning Representatives**

Union Learning Representatives can undertake the following courses:

- Learning Representatives (Stage 1);
- Learning Representatives (Stage 2).

### **Equality Courses**

- Equality Officers;
- Neurodiversity Awareness;
- Workers on the Autism Spectrum and Trade Union Support;
- Introduction to Trans Awareness;
- Promoting safe workplaces for LGBTI teachers.

In addition to the training courses, the NASUWT regularly hosts Equality Officers' Training and Development Days.

The NASUWT also hosts annual Consultation Conferences and seminars for its under-represented groups. These are for:

- Black Teachers;
- Women Teachers;
- Disabled Teachers;
- Young Teachers;
- LGBTI Teachers;
- Supply Teachers.

There are also courses for Equality Officers, Treasurers and Staff Governors and various ICT courses, which can be found via the NASUWT website at: **www.nasuwt.org.uk**.

There are also annual Equalities Conferences held in each of the devolved nations.

All the Conferences are open to members who identify with each particular group as listed above.

### **Other courses**

The NASUWT offers 'other' member training courses. These include:

- Behaviour Management (one- and two-day courses);
- Working Assertively (one- and two-day courses);
- Dignity at Work: Your Rights, Their Responsibilities;
- Staff Governors;
- Train and Accredited;
- Mental Health First Aid: Awareness;
- Mental Health First Aid: Adult;
- Mental Health First Aid: Youth;
- Mental Health First Aid: Refresher Course.

**\*N.B.** This is not an exhaustive list.

## Organising in the School/College

Organising for the NASUWT is about emphasising the main ideas and purpose of our trade union. Workplace organising is a key activity for any NASUWT Representative.

The NASUWT sees members as:

- part of a collective, social organisation – members are the Union;
- best able to identify issues of concern in the workplace;
- having ownership of those issues;
- taking responsibility for and, with the help of others, resolving the issues;
- identifying with and participating in the Union;
- being proud of their Union;
- realising that they are the Union.

The NASUWT wants activists and representatives to be able to:

- closely identify with members;
- work in partnership with members;
- reflect members' concerns;
- where appropriate, agitate and articulate concerns of members both to members and then to management;
- resist the temptation to take on all responsibility for resolving members' problems;
- respond to the question "What is the Union going to do about this?" with "You are the Union. With our help, what are you going to do about this?"

By getting the relationship right between members and activists, we hope to:

- get more members participating in the Union by taking responsibility for their own workplace issues;
- encourage new activists by letting them know they are not expected to take complete responsibility for all members;
- grow the Union in terms of activists and members.

### **In this context, the role of the NASUWT Representative should be to:**

#### **Build**

- From putting material on the noticeboard to speaking with colleagues about joining the Union, you will find it easier when you share the load. Ask other NASUWT members to help you do your job. Build a team who can help you do the things that need doing.
- Build the membership by finding someone willing to take responsibility for helping with recruitment. They could approach new teachers when they join the workplace, speak to student teachers on placements and speak to colleagues that they feel might want to join the Union.
- 'Mapping' is important. If you are in a big workplace, you might want to find a member in each department or site who can help keep track on members' details and report the information back. Alternatively, you might want to speak to members before or after each term to report changes such as moves, retirement, changes of name etc. to the Local Association Secretary. There are many ways to map, but it is important to keep accurate records so that the Union can function most effectively.

- Take the time to build relationships with other unions and senior leaders. Being able to approach individuals to form alliances or deal with informal issues is important. If a colleague is confident with this type of activity, then talk about how you might be able to build these relationships together.

### **Engage**

- Get together with members and talk generally about issues they face, the Union, or education in the news. Feeling that the Union is accountable and listening is important for members.
- Regular, formal meetings are necessary, too. Give members the opportunity to engage with each other and discuss issues that they might have. Briefing them on union news is vital to ensure they can effect change through the Union's democratic structures.
- It is essential that your school is represented at Local Association meetings. These meetings keep your workplace engaged with the wider NASUWT community. Your Local Association Secretary can help you and give advice when you need it. If you cannot get to a Local Association meeting yourself, ask other members in your school to do so.
- Engage effectively with school management and report regularly back to NASUWT members on all discussions/developments. Ensure members are kept apprised of wider issues affecting their terms and conditions.

### **Inform**

- Organise ways to pass on information to members within the school. If members share different lunch times or are in different departments, delegate responsibility to pass 'down' information. Develop a system in which members can feed back on news, so you can decide if a members' meeting is necessary to address any recurring concerns.
- Do your best to make sure that union noticeboards are up to date and that you are publicising the material that the Union sends out. If another member is willing to take on this responsibility, make arrangements for them to join the team.

### **Empower**

- Where you feel it is possible to 'group' members' concerns, encourage them to get together and suggest alternatives and encourage them to act together as a union.
- Have conversations with members about how they can contribute to the direction of the Union at work. Do not be tempted to 'service' members and try to meet their needs yourself. Organise them by delegating responsibility so that they can effect their own change.
- The NASUWT wants all minority and under-represented groups within the Union to participate. Women, disabled, lesbian, gay, bisexual, trans and intersex (LGBTI), black and minority ethnic (BME) and young members should be encouraged and if there are issues at work, or within education that specifically relate to a minority group, we should empower them to make changes by engaging them within the Union's structure.
- Identify training needs of members, whether union training or continuing professional development (CPD), and make representations on their behalf.

### **REALISM**

Realistically, organising is about increasing the number of activists and participating members to as high a percentage as is practicable. Activists/representatives operating in an organising environment will be more proactive. We cannot achieve this type of organising culture overnight, but the NASUWT has committed itself to making the journey.

**Useful recruitment resources produced by the NASUWT can be found on the NASUWT website at: [www.nasuwt.org.uk](http://www.nasuwt.org.uk).**

## **Recruitment**

### **Who should you recruit?**

#### **Existing colleagues**

The most common reason given for not being in a trade union is 'nobody asked me'.

There has never been a more important time to recruit to the NASUWT, the largest teachers' union in the UK. The education system, alongside all other public services, has been subject to cuts and reform. Freedoms afforded to academy and free schools have resulted in a weakening of the national terms and conditions that teachers could previously rely on. It is vitally important that teachers in academies and free schools understand the importance of joining the NASUWT and that, although the Union is opposed to the opening out of the education service to the market through academies and free schools, the Union will offer members in those schools exactly the same support as members in state-maintained schools.

#### **Newly appointed colleagues**

NASUWT Representatives should not assume that a new member of staff is already a member of the NASUWT or any teacher trade union. NASUWT Representatives should ensure that new starters, including student teachers on their work-based placements, are welcomed and made aware that the NASUWT Representative is always available for help and support. This introduction can then be built on to discuss the benefits of NASUWT membership with these colleagues.

#### **Supply teachers**

NASUWT Representatives may wish to discuss the benefits of NASUWT membership with supply teachers who have been engaged to undertake an assignment at the school.

The NASUWT provides detailed advice and guidance for supply teachers, as well as discounted NASUWT membership.

#### **Early career teachers**

The National Union communicates regularly with all NASUWT student members during their final year leading to qualification and has a good success rate of converting them to early career teacher (ECT) membership.

NASUWT Representatives should not assume that all ECTs have already joined the NASUWT or any other teacher trade union. In addition to discussing why the NASUWT is the largest teachers' union in the UK, NASUWT Representatives should ensure that they are informing ECTs of the most current NASUWT ECT subscription offers, as well as the specific ECT-focused seminars and webinars that the NASUWT runs every year.

#### **Early career teacher membership offer**

All ECT members who agree to pay the second year of subscription by direct debit will receive FREE NASUWT membership for the first term of teaching plus the following calendar year, followed by a 50% reduction on the second calendar year.

Free full ECT membership can commence in the months leading up to the date of qualification and provides cover for any supply work during this time.

Members who do not wish to pay by direct debit receive free membership for the first term after qualifying and half-price membership for the following two calendar years.

#### **Initial teacher training students**

Initial teacher training (ITT) students receive legal and professional cover and other membership benefits completely free during their training. The NASUWT has close links with the National Union of Students (NUS). The NUS will deal with any education-related casework

whilst the NASUWT will deal with any school-based issues that occur whilst on teaching practice. Many ITT students are recruited at the beginning of their course whilst at university; however, NASUWT Representatives should always check with those on teaching placement that they are receiving the benefits of FREE NASUWT student membership. Some ITT students, for example distance learning students, may not have been approached at university.

### **School-based teacher training programmes**

The school-based routes to Qualified Teacher Status (QTS) include School Direct (Salaried), Teaching Apprenticeships and those taking part in the Teach First or Now Teach programmes. These potential members are based in schools and have not been exposed to any of the traditional ITT recruitment events that the NASUWT attends. It is therefore vital that NASUWT Representatives approach these members in order to recruit them to the Union. These members receive the benefits of full membership completely free of charge during the time that they are training and then qualify for the same subscription offers as all other ECTs.

- Full subscriptions can be paid monthly, quarterly or annually by direct debit or by credit card by simply telephoning the Membership Team on 03330 145550 (see the NASUWT website [www.nasuwt.org.uk](http://www.nasuwt.org.uk), for current subscription rates).
- Members paying subscription by direct debit get extra benefits.
- Part-time teachers on 60% contracts or less pay half the subscription and those on 30% or less pay only 25%. Both concessions enjoy full membership benefits.
- Lapsed members returning to the NASUWT are not covered for the time during which they did not pay subscriptions.
- Tax relief is available on subscriptions. Contact your local tax office, quoting your National Insurance number or your Tax Reference number. The Union's website has details of how to do this.

#### **Useful recruitment resources produced by the NASUWT:**

- *The NASUWT Noticeboard Pack*
- *Starting Out – a quick guide for new teachers*
- Full member application form
- New teacher application form
- Student Handbook
- Student application form
- *Induction Planner* (available to download on the NASUWT website – free to members)
- *Join Today* flyer

**Always appraise yourself of the latest membership offer and recruitment incentives. These can be found at: <https://www.nasuwt.org.uk/why-join.html>.**

All the resources detailed above can be downloaded free of charge from the NASUWT website at: [www.nasuwt.org.uk](http://www.nasuwt.org.uk).

***It has never been easier to join the NASUWT either online at [www.nasuwt.org.uk](http://www.nasuwt.org.uk) or by making one hassle-free phone call to 03330 145550.***

## Appointment of NASUWT Representatives

The NASUWT is a democratic organisation run by teachers elected by their colleagues to represent them. This is true from every NASUWT Representative to the National Executive Members and National Officers. Each year, usually in June/July, a meeting of members in the school should be called and nominations for school-based union positions (NASUWT Representative, Health and Safety Representative and Learning Representative) requested. If there is more than one nomination for a position, a ballot should be held. Once elected, the NASUWT Representative should:

- inform the Local Association Secretary and Regional Centre;
- inform the headteacher and request that all consultation on conditions of service issues be conducted through the Representative.

Every elected and registered NASUWT Representative will be issued with an official card valid for one academic year. This card accredits the Representative as the individual within the school entitled to speak collectively on behalf of NASUWT members.

The law requires additional accreditation for those representing members in disciplinary or grievance hearings on the advice of their Local Association Secretary. The NASUWT issues two levels of accreditation, which is gained by attending appropriate NASUWT training. Please contact your Local Association Secretary in case of non-receipt.

Upon completion of a Working Together (Stage 1) course, accreditation as an NASUWT Representative is issued and upon completion of a Casework (Stage 3) course and Discrimination Casework course, accreditation as a Casework Representative is issued.

**Aim to elect a Deputy NASUWT Representative within your school.**

## NASUWT Representatives' Rights

The NASUWT Representative has many rights. Some of these rights are covered by legislation and some are the result of agreements reached at national level between trade unions and employers. It may be the case that these rights have been improved upon in your area by local agreement, so you should check with your Local Association Secretary what arrangements are in place. Amongst the rights enjoyed by NASUWT Representatives are:

### Statutory rights:

- the right not to be disciplined before discussions have taken place with a senior official of the Union;
- the right to time off with pay for training;
- the right to time off with pay for the performance of trade union duties;
- the right to information from the employer for the purposes of collective bargaining;
- the right to be consulted before changes to working conditions are introduced.

### Agreed rights:

These are set out in the *Conditions of Service for School Teachers in England and Wales* (Burgundy Book) and apply to all LA schools, most foundation and voluntary-aided (VA) schools and many multi-academy trusts (MATs):

- the provision of lists of newly appointed teachers in the LA area and arrangements for communicating direct with the new teachers;
- the provision annually of lists of teachers employed in the LA schools;
- the right to noticeboard(s) with sufficient space for display purposes;
- the right of access to a telephone with reasonable privacy (the cost of calls on union business can be reclaimed from the Local Association);
- the right of access to copying facilities (material costs should be reclaimed from the Local Association);
- the right to use suitable meeting rooms.

**These rights are described in more detail elsewhere in this manual.**

### For further information:

*Acas Code of Practice:*

*No 1: Disciplinary and grievance procedures*

*No 2: Disclosure of information to trade unions for collective bargaining purposes*

*No 3: Time off for trade union duties and activities*

Available from **www.acas.org.uk**

*Agreement on Facilities for Representatives of Recognised Teachers' Organisations* (Burgundy Book) available from **www.nasuwt.org.uk**

## Consultation and Negotiation

School management must consult NASUWT Representatives before any changes are introduced. If the proposed changes relate to working conditions, then negotiation must take place and an agreement must be reached before changes are introduced. NASUWT Representatives should keep in close touch with their Local Association Secretary and seek advice when necessary.

**Staff meetings or departmental meetings must not make decisions relating to the conditions of service of teachers and, in particular, must not express views relating to the employment, non-employment or redundancy of a teacher.**

**NASUWT Representatives are also entitled to receive information from school or college management. This should include:**

- school/college budget;
- school/college pay policy;
- staffing policy/development plan;
- policies on allocation of work/non-contact time/cover;
- disciplinary and grievance procedures;
- capability procedure;
- health and safety policy;
- behaviour at work/dignity at work/bullying/harassment policy;
- equality/equal opportunities policy, including the Disability Equality Scheme;
- directed time calendar budget;
- calendar of meetings/activities, etc.;
- school/college procedures (e.g. performance management policy);
- national agreements (Burgundy Book);
- contractual duties (STPCD) (Blue Book).

This is not necessarily an exhaustive list, as there may be other information which you should be provided with as an NASUWT Representative, especially if it has the potential to impact on the terms and conditions of members of staff at the school.

It would also be useful to get copies of any local agreements across your LA and any agreed model policies. However, the governing bodies of schools may adopt these model policies or change them, in which case the NASUWT Representative should be consulted.

## Dealing with the Employer

Most solutions can be found in sensible discussion and negotiation with those who have the power to put matters right. In your case, this will usually be the headteacher or principal of your school or college. There is no immediate way to become proficient as a Representative and negotiator and, as with most skills, practice is key.

### Building confidence

Confidence is one aspect of success. Confidence comes partly from knowledge and experience.

It is important to attend the NASUWT Working Together courses for Representatives as these are designed to help Representatives develop a range of skills.

As a Representative, you may encounter both success and failure when trying to resolve members' issues. Sometimes the outcome you wish to achieve is not going to be attainable.

A source of confidence can be the trade union organisation you have built in your school and the NASUWT organisation that stands behind it. Remember that you are part of the wider Union and there is a range of support available through your Local Association and your Regional Centre.

### Dealing with the headteacher or principal

On most occasions, the employer representative you will deal with will be your headteacher or principal. Often, this person can help sort out the problems individual members bring to you and it is the headteacher or principal that you will consult and negotiate with in your defence of members' collective interests.

Where possible, you should try to establish a good working relationship. Although a trade union representative and the employer may have differing views, matters can often be resolved in a climate of mutual respect and a sensible headteacher will welcome the role you play.

### Working with other trade unions

The NASUWT Representative should take the lead in setting up a framework for co-operation.

This will involve establishing a joint union committee of union representatives, to discuss issues as and when they arise.

Wherever possible, a joint position should be agreed. However, we have to recognise that, from time to time, members of other education unions may wish to adopt a different stance from that which the NASUWT believes to be in the best interests of teachers. On those occasions, we have to recognise the right of colleagues in those unions to pursue their interests and they should recognise the right of the NASUWT to do likewise.

There will probably be support staff trade unions represented in the school or college. UNISON, GMB and Unite represent other support staff and are all signatories to the National Agreement. On many issues, there will be a common interest shared by all employees.

### Structures for consultation and negotiation

Experience has shown that the best way of achieving constructive discussions with school/college management is to establish some formal or semi-formal structures in which these discussions take place. The NASUWT recommends the establishment of a union Joint

Negotiating Committee (JNC), consisting of trade union representatives on one side and representatives of the management on the other. The JNC should have referred to it all matters that impact upon teachers' conditions of service or pay.

Management should understand that teachers' conditions of service and pay are the concern of recognised trade unions and not of other groupings within the school or college.

Appendix 2 of this handbook contains a model constitution for a school JNC, which can be adapted to suit your own situation. Small schools would not need elaborate arrangements, but whatever the size of the school or nature of the consultative and negotiating arrangements, some basic principles apply:

- all matters of conditions of service should be discussed with union representatives through this committee;
- all recognised trade unions have a right to have a representative on the committee;
- unions and management have the right to have 'advisers' present;
- each union has the right to make separate approaches on any issue where no union agreement exists;
- meetings will take place during paid time;
- a mechanism for resolving disputes should be established.

## Using the PIPO approach

When handling problems of any sort, it is wise to have a general strategy so that you can be systematic in your approach, whether it is making an approach to school management on behalf of members or when involved in representing an individual member. The NASUWT favours using an approach called 'PIPO'. PIPO stands for **P**roblem, **I**nformation, **P**lan and **O**rganise. The headings indicate the stages of preparation.

### Identify the **PROBLEM**

- ❖ What are the facts?
- ❖ Is it a grievance or disciplinary issue?\*
- ❖ Is it an individual case or part of a wider problem?
- ❖ Can I settle it at school level?

### Find the **INFORMATION**

- ❖ What do the agreements (if any) say?
- ❖ What are the agreed procedures?
- ❖ What does NASUWT policy say?
- ❖ Might any legal rights apply?
- ❖ Who should I ask for advice?

### Work out a **PLAN**

- ❖ How should I involve the members?
- ❖ What are the NASUWT's aims?
- ❖ How should I take up the problem (and with whom)?
- ❖ What arguments should I use?
- ❖ What pressure (if any) can the Union bring to bear?
- ❖ How can tackling this problem be used as a way of strengthening the Union?

### Use the case to **ORGANISE**

- ❖ Is this a collective issue?
- ❖ Is it deeply and widely felt by the members?
- ❖ Is it an issue in which we can involve everyone in winning?
- ❖ Will it unite members and non-members?
- ❖ Is the issue winnable, or partly winnable?
- ❖ Will it result in a visible improvement?
- ❖ Will it give members a sense of their own strength?
- ❖ Will it raise the profile of the Union?
- ❖ Will it build Union solidarity?

**\*Remember**

1. You can only represent members in disciplinary/grievance procedures if you have been accredited to do so and are acting on the advice of your Local Association Secretary. This accreditation is gained by attending the appropriate training.
2. Always keep a careful record of what you do and of any meetings you attend.
3. You must follow the **NASUWT Code of Practice for Handling Members' Casework**.

**Problems come in many shapes and sizes. Sometimes it is not entirely clear, at first sight, what the problem actually is. You may need to carry out some investigation, including talking to the member(s) concerned, to make sure that you have the facts straight in your mind and are clear about the nature of the problem.**

Some problems brought forward by members may fall into the category of grievances. Members may feel that they have been badly treated in some way and want you to take the matter up.

Sometimes you may have to advise members that it would be a mistake to take the matter up if there is little or no chance of success. Sometimes you will decide that, although the grievance is genuine, it is not something that the employer can solve and you may have to advise the member to seek further advice. Sometimes the complaint is about the behaviour of a fellow worker. Such problems are always difficult to resolve and you may want to discuss the matter with the parties involved rather than take up the issue with management. And, of course, some problems are both genuine and capable of being resolved by the employer or management. You may wish to take these up with your headteacher.

By law, every school must have a written **grievance procedure** that lays down the process by which problems of this sort can be dealt with.

There is, invariably, an informal stage to the procedure where you will have an opportunity to solve the problem in discussion with the member(s) and the school/college management. Where possible, problems are best dealt with at this informal level. Of course, the problem might be that the member has been accused by the management of some misconduct. In this case, the member may be subject to **discipline**.

By law, all schools must have a written **disciplinary procedure** that will lay down the 'rules' of procedure.

Finally, the problem, although raised by an individual member, may have implications for other staff in the school. In this case, it becomes a collective issue and may need to be the subject of consultation/negotiation between the NASUWT Representatives and the school/college management. Alternatively, it may be a collective issue that you can organise a campaign around. Once you have a clear idea of the problem, you can then begin to decide what information you need to gather in order to tackle it.

**Information is crucial when handling members' problems. Your first source of information will be from the members themselves. You may have to interview individuals to establish the facts or you may have to hold meetings of members to ascertain their views.**

Much of the basic information you need can be gathered from documents (e.g. the Blue Book and the Burgundy Book). You need either to have copies of these in your file or easy access to them within your school.

**Agreements** (at school, local or national level) are another vital source of information. At school level, for example, there might be an agreement about the distribution of 'duties' amongst the staff and at local level there might be an agreement that improves upon national arrangements for sick leave.

Do not forget **custom and practice**. These are arrangements that may have continued for years without ever being written down. You can consider such arrangements as unwritten agreements that management should not change without prior negotiation with the trade unions.

**Make sure you know what the problem is.** You might also wish to consider whether the member has any legal employment rights covering the matter in dispute.

There are also legal rights relating to health and safety. In both individual and collective issues, union policies are an important source of information. Do not worry if you do not have all of this information at your fingertips. You can turn to the NASUWT for detailed information and advice. Contact the Member Support Advice (MSA) Team, in the first instance, on 03330 145550 or [advice@mail.nasuwt.org.uk](mailto:advice@mail.nasuwt.org.uk).

**Planning is the final stage of the process. Once you have understood the problem and have gathered the necessary information, you should consider the following:**

- Does the case have merit?
- Should the Union be supporting it?
- Is it an individual matter that needs tackling with grievance or disciplinary procedures or is it a collective matter that needs taking up through campaigning or existing consultation/negotiation machinery?
- Is it a case that needs the involvement of others within the Union (Health and Safety Representative, Local Secretary, etc.)?

Is it a problem that can be sorted out at school level or does it need tackling at the LA, or even national, level?

A good guiding principle is that problems should be sorted out at the lowest possible level. Many simple, minor day-to-day problems can be sorted out by informal discussions with members of the management team and, if this can be done, it benefits everybody. It is better to be a troubleshooter where possible! If the problem is urgent, then there should be a way of raising it immediately with the headteacher.

Sometimes it will not be possible to solve problems informally. In these cases, you may decide to embark on more formal solutions by invoking available procedures or raising the issue(s) through school-level consultation/negotiation procedures.

The way in which you decide to handle a problem may depend on circumstances other than the facts of the case. For example, if you have a large, determined NASUWT membership, you may be able to tackle problems in a way that is not possible if you have a very small membership or if members are not willing to give support.

Remember that when you are working out your plan of action, you are acting as a Representative of the NASUWT. Always be aware of Union objectives and of the attitude and views of your members at school. Never be afraid to take advice from your Local Association Secretary and never be afraid of passing the problem on to somebody more experienced or senior in the Union if you feel that you may be getting out of your depth. In such circumstances, the preliminary work you have done and the notes you have made will be invaluable.

**Make sure you have a plan.**

## Services for Members

The NASUWT's legal and casework services for members, and in some cases their families too, is the envy of many other organisations. The Union uses solicitors who specialise in employment, personal injury, trade union, civil and criminal law, and professional disciplinary hearings. More information can be found in the NASUWT Diary or online at: [www.nasuwt.org.uk](http://www.nasuwt.org.uk).

### Helping members in financial difficulty

The NASUWT Benevolent Fund is available to members, former members, the dependants of members and former members, and dependants of deceased members, provided a subscription has been paid to the Union (and former members have not joined another teaching trade union). Sometimes members experience financial hardship through no fault of their own and as a result of unforeseen circumstances. These situations can arise because of chronic illness, bereavement, an accident or loss of employment through dismissal or redundancy. The NASUWT Benevolent Fund was created to provide effective short-term assistance during such difficulties.

For those members who have accumulated large or unmanageable debts, the Benevolent Fund provides access to a money advice service through Citizens Advice Bureau or Payplan, for free and confidential debt advice. A member seeking financial help should contact their Local Association or the Legal and Casework Team at NASUWT Headquarters to arrange a visit from a local benevolence officer who will complete the application form on the member's behalf. All information will remain strictly confidential.

A member seeking financial help should contact their Local Association or the Legal and Casework Team at NASUWT Headquarters to arrange a visit from a local benevolence officer who will complete the application form on the member's behalf. All information will remain strictly confidential.

### Employment-related legal services

- Casework advice and assistance may be provided in respect of matters arising from or in the course of a member's teaching duties. The Union's casework services include:
  - ❖ advice on all aspects of employment including terms and conditions, school policies, maternity rights, pay, redundancy and discrimination;
  - ❖ the defence of disciplinary allegations or competency proceedings;
  - ❖ representation and support in the defence of teacher regulation proceedings, i.e. NCTL;
  - ❖ representation, where claims are deemed to have reasonable prospects of success, at Employment Tribunals, for cases such as breach of contract, unfair dismissal, redundancy and discrimination on the grounds of one or more protected characteristic;
  - ❖ advice and assistance re: Disclosure and Barring Service (DBS) certificates and/or barring;
  - ❖ accidents at work or on a journey to and from work where the accident is caused by the negligence of a third party (see Accidents at Work, page 30);
  - ❖ assaults at work (see Assaults, page 33);
  - ❖ criminal allegations (see Allegations, page 31);
  - ❖ termination of employment via a Settlement Agreement, where appropriate.
- Where it is judged necessary and appropriate, legal assistance will be provided at no cost to the member.
- NASUWT members who were not in membership or were three or more months in arrears with their subscriptions at the time the issue occurred are not entitled to casework representation and/or legal assistance and cannot establish entitlement to representation by subsequently paying arrears. Retired, former, career-break and associate members

who were in full membership at the time the issue occurred, and in the case of former members, providing they have not joined another teacher trade union, are also entitled to representation.

In the first instance, NASUWT Representatives should contact their Local Association Secretary if they believe a member needs legal assistance. A decision can then be made as to where the member should be referred. The NASUWT Casework Code of Practice provides further guidance on the question of what level cases should be dealt with. NASUWT Representatives should note that any case involving alleged or suspected discrimination must always be escalated to the Regional/National Centre, to be conducted by a paid official. In cases of real emergency, which usually involve a criminal allegation, see Allegations on page 31.

## Non-employment-related legal services

### FREE non-employment Legal Advice

NASUWT members can take advantage of a 30-minute free advice service staffed by experienced advisors able to access the latest information and equipped to advise on any non-employment legal issue. This service is provided for the NASUWT by Thompsons Solicitors.

Call 0808 100 2221 between 8am and 8pm on weekdays to speak to an advisor. A membership number will be required to use this service and is only for members.

### Members and their families

The NASUWT, in association with Thompsons Solicitors, the UK's largest and longest established firm of personal injury and employment lawyers, offers a complete legal package for members and their families available through one FREE telephone number.

#### Call 0808 100 2221

- The Union offers a free personal injury scheme which provides advice and representation for members and their families for injury outside of the workplace, including from road traffic accidents and for non-work-related disease or illness. Accidents which occurred abroad, for example on holiday, are covered if the claim can be pursued in the UK courts. The scheme does not cover medical negligence or non-work-related CICA claims.
- Members and their families have access to a free road traffic accident scheme. If a member or any member of their family is injured in an accident on the roads, whether as a driver, cyclist or pedestrian, the NASUWT provides full legal assistance in making a claim for personal injury.

#### Call 0808 100 2221

- A free, basic will-writing service is available for members to help safeguard the interests of family, friends and dependants. A reduced rate service is offered to members and their families. A reduced Probate Administration and Lasting Power of Attorney service is also available to members and their families. The service is provided by BBH Legal Services, a subsidiary of Thompsons Solicitors. Call **0808 100 2221** for an information pack or visit the website at: [www.thompsons.law.co.uk/wills/your-will.htm](http://www.thompsons.law.co.uk/wills/your-will.htm). BBH Legal Services do reserve the right to make a charge if the will is more complex, contains complex tax provisions or if the subject makes substantial changes once the will is drafted.
- Hassle-free Conveyancing – members and their families can take advantage of this low, fixed-fee package offered by BBH Legal Services, which even avoids the need to visit a solicitor. Just call 0808 100 2221 or visit: [www.thompsons.law.co.uk/propertymoves/your-propertymoves.htm](http://www.thompsons.law.co.uk/propertymoves/your-propertymoves.htm).

## Is there anything else I should know about the NASUWT?

You might like to know that, in addition to representing members in all the devolved nations, Channel Islands, Isle of Man, Gibraltar and Ministry of Defence Schools overseas, the NASUWT is very active internationally.

The NASUWT is an active member of Education International, the worldwide organisation for teacher unions. The NASUWT is also represented on the European Trade Union Committee for Education (ETUCE) and works closely with the European Trade Union Confederation (ETUC).

Additionally, the Union plays an active role in the European Work Hazards Network.

### International Strategy

The NASUWT is committed to meeting the needs and concerns of members by taking action at home and abroad to advance rights at work, to secure decent working conditions and to raise the professional status of teachers. The NASUWT International Strategy is an integral part of our response to the needs of our members and the future growth of the Union.

In an increasingly unstable world, we have a duty to act; not only to lend our support to others whose basic and fundamental rights have been attacked, but also for the sake of our own members' futures.

Key to our values and objects as a union is our commitment to solidarity, democracy and internationalism because we believe that united we stand and divided we fall.

We know that education and independent trade unions are the best antidote to anti-democratic and authoritarian regimes around the world. Teachers and trade unions know that democracy is not broken, but it is up to us to defend it. In this context, the importance of working together with national and international partners to defend our democratic principles, values and institutions cannot be overstated and will guide our work over the coming period.

The NASUWT's international strategic activity has the following aims:

- i. defending the human and trade union rights of teachers in the UK and around the world;
- ii. building the capacity of teacher trade unions in other countries to operate freely, independently, inclusively and democratically to enable them to advocate effectively on behalf of their members at home;
- iii. securing the goal of universal access to free quality education (i.e. qualified and quality teachers, quality teaching tools and resources, and quality learning environments which are safe and secure) for all children and young people.

### International Solidarity Award

As part of its international strategy, the NASUWT initiated its own International Solidarity Award in 2012.

The annual International Solidarity Award is made by the NASUWT in recognition of the work of an individual or organisation that has made an important contribution to education and human and trade union rights.

The NASUWT International Solidarity Award recognises and celebrates the work of those individuals around the world who have demonstrated through their courage the values of solidarity, equality and democracy.

Recipients of the NASUWT International Solidarity Award are, by their nature, educators. They embody the moral purpose of teachers in seeking to create a better future for children and young people, free from fear, injustice, bigotry and hatred.

The seven guiding principles for conferring the International Solidarity Award are to recognise the contribution of individuals to:

- defending human rights;
- defending trade union rights of teachers;
- working for quality education;
- demonstrating values of solidarity, equality and democracy;
- pursuing the role of educator/teacher;
- challenging violence, injustice, bigotry and hatred;
- solidarity work in countries outside the UK.

The NASUWT's international work is crucial in a context in which trade unions are under attack across the world, not only by non-democratic governments but also by many multinational corporations. The international dimension to the NASUWT's work has become particularly acute now that UK governments have begun to cherry-pick the free-market policies and strategies of other countries, including misusing international evidence to back up their own ideological beliefs.

**For further up-to-date information on all of the Union's international campaigns, please go to [www.nasuwt.org.uk/news/international](http://www.nasuwt.org.uk/news/international).**

# Accidents at Work

The NASUWT offers a FREE personal injury legal service that is second to none. The Union uses only solicitors specialising in such work.

- Members suffering an accident at work should ensure that details of the incident are recorded in the school accident book.
- The NASUWT Health and Safety Representative should investigate the accident and note any relevant circumstances. Sketches, photographs and measurements may be taken. Keep copies of everything. The Health and Safety Executive (HSE) advises that under the requirements of Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR), any workplace accident must be reported where the employee has one of the 'specified injuries' as set out in the RIDDOR legislation or where the accident results in an employee being away from work, or unable to perform their normal work duties, for more than seven consecutive days as the result of their injury. This seven-day period does not include the day of the accident, but does include weekends and rest days. The report must be made within 15 days of the accident. Accidents must be recorded, but not reported, where they result in a worker being incapacitated for more than three consecutive days.
- If the member believes that the accident was caused by the negligence of a third party, then the Local Association Secretary should be contacted in order to arrange for an NASUWT Legal Aid application form to be obtained, completed and returned for assessment to the Legal and Casework Team at NASUWT Headquarters.
- Members can also telephone the NASUWT free Legal Advice Line on 0808 100 2221 to enquire about making a personal injury claim.
- If the employer carries 'no fault' Personal Accident Insurance on behalf of employees, then a protective claim may be made under the relevant policy, but no action should be taken pending a decision about the possibility of pursuing proceedings in negligence (see above).

If all else fails, there remains the possibility of seeking a discretionary ex-gratia payment from the employer. If such a payment is made, this is entirely at the discretion of the employer. The member should not seek such a payment until the Union and its solicitors have reached a decision about the possibility of pursuing proceedings in negligence. Advice should be sought from NASUWT Headquarters.

# Allegations

It is an unpleasant fact of teaching today that more and more teachers have an allegation of emotional, physical or sexual abuse made against them. As far back as 1991, the NASUWT has been highlighting the injustice being perpetrated against teachers and other school staff as a result of being falsely accused.

A Government-commissioned study conducted in 2009/10 confirmed the Union's concerns demonstrating that 45% of allegations against school staff were unfounded or unsubstantiated and 2% were malicious. Only 3% led to convictions or police cautions. The Union had therefore long campaigned for a statutory provision to grant anonymity for teachers facing allegations from pupils.

The Education Act 2011 introduced such a provision which restricts the reporting of allegations of criminal offences by teachers in England and Wales and any associated publicity that would identify the subject of such allegations, prior to any charge. The reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State or the Education Workforce Council (EWC) in Wales publishes information about an investigation or decision in a disciplinary case.

Statutory government guidance, *Keeping Children Safe in Education* (2021) and *Working Together to Safeguard Children* (2018) in England, includes a section on dealing with allegations of abuse made against teachers and other staff. The guidance is aimed at all schools, including academies, free schools, independent schools and all types of maintained schools.

Key points for members are:

- schools should not automatically suspend teachers, including supply teachers, where alternatives exist;
- employers have a duty of care to their employees and should act to manage and minimise the stress inherent in the allegations process;
- the case manager (normally the headteacher/principal) should inform the accused person about the allegation as soon as possible after consulting the designated officer(s). It is extremely important that the case manager provides them with as much information as possible at that time;
- all allegations should be investigated as a priority to avoid any delay. All but a very small number of the most complex cases should be resolved within three months, with the vast majority being resolved in four weeks;
- false, malicious or unsubstantiated allegations should not be included in employment references;
- there are generally three types of investigation arising from child protection allegations:
  - enquiries by social services or the NSPCC under local child protection procedures;
  - related police investigations into possible criminal offences; or
  - enquiries under school disciplinary procedures.
- investigations by police or child protection agencies take precedence over internal investigations. These should be held in abeyance by the school until the completion of the former.

If a criminal allegation is made against a member which is related to their teaching employment, e.g. physical or sexual assault, or theft, and the member has been called for interview by the police, NASUWT Representatives should advise as follows (the advice is available online at: [www.nasuwt.org.uk](http://www.nasuwt.org.uk)):

- The member should say to the police officer: *“I am anxious to co-operate in getting this matter cleared up. I have been advised by my union not to agree to answer questions or make a statement until my solicitor is present”*.
- The member should be given the opportunity to make a telephone call. Members in England should call the Member Support Advice Team on **03330 145550**, with details of the police officer’s name, rank, police station and telephone number. Contact details can be found in the NASUWT diary or on the website [www.nasuwt.org.uk](http://www.nasuwt.org.uk). Legal representation will then be arranged for the member.
- If the police officer will not allow the member to contact the NASUWT, and arrests them, the member should ask for the services of the duty solicitor and contact the Member Support Advice Team. The member needs to obtain the contact details of the duty solicitor to pass onto the NASUWT.
- If the police contact a member during out-of-office hours, the member should contact the out-of-hours helpline on **0800 587 7530** – weekdays (Monday to Thursday 5.30pm-8.30am), weekends (Friday 5.30pm to Monday 8.30am).

Legal representation is provided by Thompsons Solicitors, who are experts in the representation of NASUWT members. It should be noted that legal representation can only be provided in circumstances where the allegation is work-related.

NASUWT members who were not in membership or were three or more months in arrears with their subscriptions at the time the alleged incident occurred are not entitled to casework representation and/or legal assistance and cannot establish entitlement to representation by subsequently paying arrears. Retired, former, career-break and associate members who were in membership at the time the issue occurred, and in the case of former members providing they have not joined another teacher trade union, are also entitled to representation.

#### **For further information:**

Department for Education: *Keeping Children Safe in Education* (2021)

<https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>

Department for Education: *Working Together to Safeguard Children* (2018)

<https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

Welsh Government: *Keeping Learners Safe* (2015)

<https://gov.wales/sites/default/files/publications/2018-11/keeping-learners-safe-the-role-of-local-authorities-governing-bodies-and-proprietors-of-independent-schools-under-the-education-act-2002.pdf>

Department for Education: *Use of Reasonable Force – Advice for headteachers, staff and governing bodies* (2013)

Department for Education: *Behaviour and Discipline in Schools: a guide for headteachers and school staff* (2016)

# Assaults

The NASUWT has a long record of protecting members against assaults at work. Any assault against a member should be reported immediately to the Local Association Secretary. Under health and safety law, all schools should have a policy on protecting staff against violence at work.

- Any member suffering an assault should ensure that the details of the incident are recorded in the school accident book.<sup>1</sup> The HSE advises that under the requirements of RIDDOR, any workplace assault must be reported where the employee has one of the 'specified injuries' as set out in the RIDDOR legislation or which resulted in an employee being away from work, or unable to perform their normal work duties, for more than seven consecutive days as the result of their injury. This seven-day period does not include the day of the accident, but does include weekends and rest days. The report must be made within 15 days of the accident. Accidents must be recorded, but not reported, where they result in a worker being incapacitated for more than three consecutive days.
- The employer should report the assault to the police. If the employer refuses to do this, then the member should make such a report themselves within 48 hours of the incident taking place, where possible, and the Local Association Secretary should be informed.
- If the Crown Prosecution Service decides not to act against the assailant, then, through the Local Association Secretary, the employer should be urged to instigate a private prosecution. In case of the employer refusing, the Local Association Secretary will refer the case to the Legal and Casework Team at NASUWT Headquarters for assessment.
- The Union may support a private prosecution if there are reasonable prospects for bringing such an action to a successful conclusion and if it is deemed that proceedings through the courts would contribute to the process of safeguarding teachers against assault. Members need to be aware that the viability or otherwise of bringing a private prosecution will be largely determined by the age of the assailant and the possibility of demonstrating intent if they are a minor.
- In appropriate circumstances, it may be possible to seek compensation from the Criminal Injuries Compensation Authority (CICA). It is normally necessary for the assault to have been reported to the police. A claim must be made within two years of the date of the assault.
- If the attacker is a pupil, the NASUWT Representative should press for the permanent exclusion of the offender. If this is refused, then, through the Local Association Secretary, the National Executive Member should be informed. In the appropriate circumstances, the Union will support a decision not to teach the offending pupil.
- If the attacker is a parent or intruder, the possibilities of prosecution detailed above should be explored. In any case, the employer should be urged to write, banning the offender from the premises and threatening prosecution in case of any repetition.

<sup>1</sup> A supply teacher should ensure that they retain a copy and inform the agency/umbrella company.

- If the negligence of the employer or some third party has exposed the member to risk of assault, then there may be a possibility of a claim for compensation being taken through the courts. A claim must be made within three years of the date of the assault. Members who have suffered a personal injury at work should contact the NASUWT's free legal advice line on **0808 100 2221**.

**For further information:**

- *Health and Safety: 'Take the Risk Out' interactive training resource* [www.nasuwt.org.uk](http://www.nasuwt.org.uk)
- *Behaviour Management* (NASUWT)
- *Pupil Behaviour* (NASUWT)
- *RIDDOR 2013* [www.hse.gov.uk/riddor](http://www.hse.gov.uk/riddor)

# Budgets

NASUWT Workplace Representatives have a crucial role in ensuring that school and academy spending is in the interests of teachers and that job loss of NASUWT members is avoided. Workplace Representatives will need to scrutinise their school or academy budget throughout the year to achieve this.

School and academy governing boards are responsible for deciding on the spending of the funding which the school or academy trust receives each year. In some schools, this function may be delegated to the headteacher/principal.

All funding devolved to schools, including pupil premium funding, is available for governors, academy trustees and headteachers to decide on how to spend. School and academy budgets are not generally allocated under different headings and, as the year progresses, employers can often move funds from one budget heading to another. This is called virement.

Employers and schools may be reluctant to share information on budgets and running costs, but the NASUWT Representative has an entitlement to obtain relevant information in order to engage in a meaningful dialogue about decisions affecting members within the school/college.<sup>2</sup>

Headteachers can decide how to make use of pupil premium funding in the school. This should be done to support the progress made by pupils who attract the pupil premium, but the headteacher is not required to spend pupil premium funding specifically on the child for which the pupil premium allocation was made.

For schools and academy trusts, the budget construction, monitoring and reporting is a cyclical process. The outturn of one year informs decisions on the budget for the succeeding year.

School funding has seen significant change since 2010 and this has continued from 2018 onwards. The most significant change is the introduction of the National Funding Formulae (NFF) for schools, high needs and central school services.

The schools NFF was introduced on 1 April 2018 for local authority (LA) maintained primary, secondary and middle schools and on 1 September 2018 for primary and secondary academies. Each school and LA receives its indicative NFF allocations for the School Year in December before the School Year begins.

However, there are transitional arrangements in place for the introduction of the NFF through to 2023-24, as NFF funding can still be distributed by LAs to schools in accordance with the local funding formula. This is known as the 'soft NFF'. The total schools block funding allocation for each LA will be determined by the NFF, but individual school funding will be dependent on whether or not the LA decides to continue with a local funding formula. Alternatively, LAs can decide to passport to schools exact NFF allocations under the soft formula flexibilities if they choose to do so.

The DfE has confirmed that it will implement the direct NFF in due course, following a slow, gradualist approach, which will remove the use of the local funding formulae.

From 2023-24, the DfE will require:

- LAs to use all, and only, NFF factors in their local formulae;
- all local formula factors to move at least 10% closer to the NFF, except where local formulae are already 'mirroring' the NFF;

<sup>2</sup> The Trade Union and Labour Relations (Consolidation) Act 1992 and Acas Code of Practice 2: Disclosure of Information for Collective Bargaining.

- LAs to use the NFF definition for the English as an Additional Language (EAL) factor (although flexibility over the sparsity factor methodology will remain in 2023-24).

The DfE's approach to transition in subsequent years will depend on the impact of moving to the direct NFF from 2023-24 onwards. However, the DfE is likely to continue to follow a gradualist approach to the introduction of the direct NFF.

### **De-delegation of Trade Union Facility Time**

The NASUWT has achieved one of the key aims when participating in the DfE consultation, which is that de-delegation for trade union facility time purposes from the schools block can continue under the direct NFF. This has been confirmed by the DfE in its policy on implementing the direct NFF:

*'For central functions which are delivered on behalf of schools, under a direct NFF LAs will continue to have flexibilities to de-delegate maintained schools' funding, and MATs will continue to have the ability to top-slice academy funding.'*

Negotiating Secretaries can therefore continue to organise for de-delegation of trade union facility time from LA schools budgets for the 2023/24 financial year and for all subsequent years. The decision whether to de-delegate trade union facility time will continue to be taken by schools forums, which will continue to have a role under the direct NFF.

### **High-needs settings**

There is a separate NFF for high-needs settings, which determines the funding for each LA for high needs. Special schools, PRUs and alternative provision are funded from the high-needs NFF and individual allocations to special schools and other settings will continue to be determined by the LA. Special schools are not part of the schools NFF.

### **Central school services**

A separate NFF determines the allocation which each LA receives for central school services. This NFF meets the cost of LA duties to the maintained schools workforce and also the cost of central education services to children and young people and their families, including pupils in academies in the LA area. The central school services NFF is allocated direct to academies.

### **Early Years**

There is a separate Early Years NFF for maintained nursery schools and other early years providers. This was introduced in April 2017.

### **Maintained school balances**

All maintained school balances, together with the balance figure for each LA, are published by the DfE in December each year. These are available on the Government's website at: <https://explore-education-statistics.service.gov.uk/find-statistics/la-and-school-expenditure>.

Representatives should be alert to the surpluses and deficits held by the school or academy trust. DfE information about all maintained school, individual academy and academy trust balances is available at: <https://schools-financial-benchmarking.service.gov.uk/>.

**ACTION POINT:** The NASUWT Representative should alert the Local Association Secretary to any potential funding difficulties at the earliest opportunity and seek advice.

You should also consult/inform and involve NASUWT members at an early stage in order to seek a negotiating mandate and gauge opinion within the school NASUWT group.

**ACTION POINT:** You should obtain a copy of the final budget plan and consult members on any relevant issues.

In June, the governors will be in possession of additional information with budgetary implications: they will know which members of staff are leaving at the end of the school year and which need to be replaced. If senior or experienced staff are leaving and are either not replaced or replaced by younger teachers, this represents a potential budget saving and extra money can be spent elsewhere.

**ACTION POINT:** The NASUWT Representative needs to be particularly alert at this time. Proposed or actual reductions in teaching staff without a corresponding reduction in pupil numbers means an increased workload for members. It may be necessary to make representations to the governing body, with the assistance of the Local Association Secretary and/or National Executive Member. The NASUWT is always willing to take industrial action against redundancies, should members be prepared to take this step.

By July, the governing body should be in a position to finalise its accounts for the preceding financial year. Governors of LA schools must submit these accounts, known as Section 251 or outturn statements, to the LA. The LA is then under an obligation to make the accounts easily available to the public.

**ACTION POINT:** The NASUWT Representative should obtain a copy of the statement for analysis.

By the beginning of the school year in September, governors will be looking ahead to the next financial and academic year. They will be considering and possibly amending the school development plan. Decisions made at this time (for example, decisions relating to the curriculum) could have profound effects on the security of employment of teachers.

**ACTION POINT:** The NASUWT Representative should be involved in discussions on any issues that may affect members. If pupil numbers decline significantly, inform the Local Association Secretary.

March completes the cycle when, again, the LA will be indicating to the school its likely budget share for the next financial year. Representatives should also note that schools and academy trusts are required to complete the Schools Financial Value Standard every year.

## Academies

Representatives in academies and free schools should note that funding is distributed by the Education and Skills Funding Agency (ESFA) in a financial year that operates from September to August. This means that the cycle above will differ in respect of the timing of some of the action points during the year.

Academies funding will derive from the LA's funding formula through to the introduction of the hard NFF, unless the LA is passporting the DfE's NFF allocations to individual schools. Under the NFF, all state-funded schools – maintained schools, academies and free schools – are funded on the same basis, except that central school services funding, which is allocated to the LA for schools they maintain, is allocated direct to academies. Academies, being independent of LAs, have received funding to provide the services that the LA does not provide to academies, such as music tuition, educational psychologists, some special educational needs and disability (SEND) provision, maternity costs and many more which the academy has to provide itself or purchase from another provider. Many academies do purchase these services from LAs.

However, the same reporting regulations do not apply to academies as they do to maintained schools. The income and expenditure in academies in England, called SFR27, is often not published until July of the year after that to which it applied. This data is available on the Government's website.

There will be a funding agreement between the academy or the multi-academy trust (MAT) and the Secretary of State, administered by the ESFA. If the academy is part of a MAT then the trust board will decide how it will distribute funding to the schools, and is not limited to the restriction placed on LAs in regard to the funding formula factors or the factors in the NFF. In respect of funding matters, academies are required by the DfE to follow the guidance in the Academy Trust Handbook at: [https://assets.publishing.service.gov.uk/media/60c8d0318fa8f57ce8c4621e/Academy\\_trust\\_handbook\\_2021.pdf](https://assets.publishing.service.gov.uk/media/60c8d0318fa8f57ce8c4621e/Academy_trust_handbook_2021.pdf).

Representatives in academies and free schools should request all information on the schools' funding from the headteacher, principal or business manager. If this is not provided, school representatives should contact their Local Secretary for assistance.

Further NASUWT advice on school funding is available at: <https://www.nasuwt.org.uk/advice/leadership/budgets-funding/england.html>.

# Bullying

Workplace bullying is a serious issue for teachers and therefore a concern of the NASUWT Representative if they know or suspect a member is involved.

The NASUWT believes that all children and young people and staff in schools have a right to learn and work in a safe and secure environment free from intimidation, harassment, abuse and fear and where they feel valued and respected. There needs to be a whole-school approach to tackling bullying: tackling the bullying of staff by other staff is as important as tackling pupil-on-pupil bullying and the bullying of staff by pupils.

The NASUWT defines bullying as the 'unjust exercise of power of one individual over another by the use of means intended to humiliate, frighten, denigrate or injure the victim'.

Research conducted by the NASUWT showed that over two thirds of teachers have experienced or witnessed workplace bullying in the last 12 months and one in five teachers have left their job because of bullying from colleagues or managers.

Prejudice is one of the common motives for bullying. Prejudice-related bullying is often characterised by abusive behaviour, intolerance or ostracism on grounds of an individual's gender, gender identity, ethnicity, body image/size, sexuality, disability, age, religion or belief.

The information and communications technology (ICT) that has transformed the working lives of many people and enhanced learning and leisure for many children and young people has also facilitated the growth of cyberbullying. The growth of websites such as YouTube, RateMyTeachers, Facebook and TikTok means individuals can post offensive, anonymised material on the internet. Mobile phones can be used to bully through silent or abusive calls and text messages.

The NASUWT maintains that action should be taken to prevent use of or access to the internet by pupils whilst on school premises during school sessions. School policies and procedures should also neither require teachers nor encourage them to provide individual mobile phone or e-mail contact details to pupils.

Some of the regular manifestations of bullying of staff include:

- competent staff being constantly criticised, having responsibilities removed or being given trivial tasks to do;
- shouting at staff;
- persistently picking on people in front of others or in private;
- blocking promotion;
- regularly and deliberately ignoring or excluding individuals from work activities;
- setting a person up to fail by overloading them with work or setting impossible deadlines;
- consistently attacking a member of staff in terms of their professional or personal standing;
- regularly making the same person the butt of jokes.

The NASUWT has always supported teachers in schools and colleges in dealing with incidents of workplace bullying and the NASUWT Representative has a role to play in this.

Bullying at work is illegal and remedial action should be taken against perpetrators if employers fail to intervene or fail in the legal duty of care placed upon them by the Health and Safety at Work etc. Act 1974. Additionally, the Protection from Harassment Act 1997 makes harassment both a civil tort and a criminal offence.

All schools and colleges should have an anti-bullying strategy to deal with both the bullying of pupils and adults. The NASUWT believes in zero tolerance. School behaviour policies and exclusion guidance should state specifically the sanctions to be applied to incidents of bullying.

Schools also need to have in place effective systems to deal specifically with the problem of prejudice-related bullying, and school anti-bullying policies and procedures should include specific reference to prejudice-related bullying in all forms.

### **What can the NASUWT Representative do?**

Apart from being told by a member that they are being bullied, NASUWT Representatives need to be aware of the signs of bullying, which could include:

- erratic or unusual behaviour consistent with excessive stress;
- an apparent failure to cope with the job;
- indicative patterns of illness;
- the member appearing withdrawn, distracted or nervous.

If a member is being bullied, Representatives should:

- support the bullied member;
- get their agreement on how to tackle the matter;
- organise meetings of members around the wider issue of bullying to:
  - identify the actions of the bully;
  - agree how to tackle bullying as a team;
  - alert the Local Association;
  - publicise the general issue.
- press for a whole-school anti-bullying or dignity at work policy.

Essentially, the bully should be exposed – but any response must take into account the feelings of the victim. Remember that management, and ultimately the employer, has a duty of care under the Health and Safety at Work etc. Act 1974 for the welfare of employees.

# Capability

Governing bodies must by law have procedures for dealing with lack of capability in members of staff. In May 2012, the DfE issued a new model policy for appraisal and capability. Initially, the capability procedure was presented as an extension to the appraisal policy. The NASUWT contested this during the consultation and, subsequently, the two policies were separated from each other. It is essential when dealing with the negotiation of such policies at the local level that any attempt to join the capability policy and procedure to those for appraisal is resisted.

This is particularly important since the School Staffing Regulations were amended to require a school, when asked, to provide other schools with details of any involvement in capability procedures over the previous two years by a teacher applying for a post in that school.

The DfE model has no informal stage as it states that ‘the procedure applies only to teachers and headteachers about whose performance there are serious concerns that the appraisal process has been unable to address’.

**ACTION POINT:** NASUWT Representatives should ensure that any change from the existing capability arrangements are negotiated with the NASUWT and that a meaningful consultation exercise is carried out on the changes.

During the course of such negotiations, NASUWT Representatives should do all they can to ensure that any policy/procedure includes guidance to the effect that a fall-off in performance could be as a result of illness, onset of disability or emotional upheaval resulting from situations such as divorce or bereavement and that all such circumstances should be considered and taken into account before proceeding to any formal stage.

It is vitally important that teachers have a chance to benefit from the opportunity to make the required improvements in performance during a reasonably long period of informal counselling before there is recourse to a formal capability procedure.

Under the DfE model policy and procedure where a teacher is thought to be underperforming, the headteacher should investigate the matter. (In the case of a headteacher, this should be conducted by the Chair of Governors). The teacher should be given counselling and support outwith the formal procedure. (The school can move directly to the next stage if the ‘education of children is in jeopardy,’ but this should be resisted if at all possible, and particularly in the absence of substantial evidence.)

At least five (more if it can be negotiated) working days’ notice will be given of the formal capability meeting. The notification will contain sufficient information about the concerns about performance and their possible consequences to enable the teacher to prepare to answer the case at a formal capability meeting. It will also contain copies of any written evidence and the details of the time and place of the meeting and will advise the teacher of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

## Formal capability meeting

If the level of the teacher’s performance does not improve, a formal capability meeting will take place. This is a meeting intended to establish the facts. The formal capability meeting should take place between the teacher (or headteacher) who may be accompanied by a companion (a trade union representative, for instance) and the headteacher (or Chair of Governors). At the meeting, the teacher (or headteacher) may respond to the concerns and provide information or a context to that already collected during an investigation that has taken place.

The outcome of the meeting could be a conclusion that there are insufficient grounds for pursuing a capability procedure, and the meeting could be closed.

In other cases, the meeting will continue. During the meeting, or any other meeting which could lead to a formal warning being issued, the person conducting the meeting will:

- identify the professional shortcomings;
- give clear guidance on the improved standard of performance needed to ensure that the teacher can be removed from formal capability procedures;
- explain any support that will be available to help the teacher improve their performance;
- set out the timetable for improvement and explain how performance will be monitored and reviewed. The timetable should depend on the circumstances of the individual case; and
- warn the teacher formally that failure to improve within the set period could lead to dismissal. In very serious cases, this warning could be a final written warning.

Notes will be taken of formal meetings and a copy sent to the member of staff. Where a warning is issued, the teacher will be informed in writing of the matters covered in the bullet points above and given information about the timing and handling of the review stage and the procedure and time limits for appealing against the warning.

### **Monitoring and review period following a formal capability meeting**

A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. The member of staff will be invited to a formal review meeting, unless they were issued with a final written warning, in which case they will be invited to a decision meeting (see below).

### **Formal review meeting**

As with formal capability meetings, at least five (or more, subject to negotiation) working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the teacher of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

If the person conducting the meeting is satisfied that the teacher has made sufficient improvement, the capability procedure will cease and the appraisal process will restart.

In other cases:

- If some progress has been made and there is confidence that more is likely, it may be appropriate to extend the monitoring and review period.
- If no or insufficient improvement has been made during the monitoring and review period, the teacher will receive a final written warning.

As before, notes will be taken of formal meetings and a copy sent to the member of staff. The final written warning will mirror any previous warnings that have been issued. Where a final warning is issued, the member of staff will be informed in writing that failure to achieve an acceptable standard of performance (within the set timescale) may result in dismissal and be given information about the handling of the further monitoring and review period and the procedure and time limits for appealing against the final warning. The teacher will be invited to a decision meeting.

### Decision meeting

As with formal capability meetings and formal review meetings, at least five (as negotiated) working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the teacher of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end and the appraisal process will restart.

If performance remains unsatisfactory, a decision, or recommendation to the governing body, will be made that the teacher should be dismissed or required to cease working at the school.

Should an NASUWT Representative believe at any point in the procedure (this may emerge early in the procedure) that the member is at risk of dismissal, then support should be sought from the NASUWT Regional Centre without delay.

The model policy produced by the DfE is, in the view of the NASUWT, wholly unacceptable. The NASUWT has produced a critique of the policy and this can be read on the website at [www.nasuwat.org.uk](http://www.nasuwat.org.uk), along with a capability policy checklist which sets out the NASUWT's minimum expectations.

NASUWT Representatives should respond to assertions from schools and employers that are insisting on adopting this policy by taking all steps to dissuade them from doing so, and if this is not possible try to drive improvements into the policy by:

- establishing an informal stage within the policy and procedure;
- requiring evidence to be produced to justify any decisions and actions taken against the teacher;
- requiring that timescales for improvements to be achieved are adequate to make the requirements realistic to achieve;
- requiring that access is made available to relevant support, development and training, where appropriate, in good time to achieve the necessary improvement;
- providing more stages in the process so that teachers have more opportunity to demonstrate that they are meeting the required levels of performance;
- requiring the insertion in the policy of a clause requiring an equality impact assessment to be carried out in each case.

A departure from better agreed procedures should be resisted.

#### For further information:

- *Teacher capability/competence – A review of the evidence*
- *Casework Code of Practice (NASUWT)*

# Class Size

Parents, teachers, headteachers and governors agree that excessive class size is detrimental to the education of children, although there is, in England and Wales, no statutory limit on the size of any class above Key Stage (KS)1. There is a statutory duty upon both LAs and governing bodies and proprietors of academies and free schools to limit the size of infant classes for KS1 children taught by a single qualified teacher to 30 or below, except in a limited range of specific circumstances. However, there are some exceptions to this general limit to permit the admission of pupils with special educational needs (SEN) or who have been in care in very specific circumstances.

- As a trade union, the NASUWT is most concerned that increasing class sizes impose greater workload on teachers, which is unreasonable, unacceptable and must be resisted.
- The NASUWT Representative has the right to receive all relevant information regarding budgeting and staff planning and to engage in consultation with school management.
- The Representative's aim should be to achieve an agreed solution to excessive class size through constructive dialogue with management.
- The solution to excessive class size will be unique to each individual school. In the short term, there may be a need for a reduction in other areas of teachers' work in order to enable them to cope with the work generated by larger classes.
- The optimum class size depends on the nature of the pupils and the activity concerned. Custom, practice and best advice is that practical classes should contain no more than 20 pupils.
- The problem of excessive class size may be approached as a health and safety issue under the Health and Safety at Work Act 1974, which requires employers to provide a safe and healthy working environment. The NASUWT Representative should seek the assistance of the Health and Safety Representative in progressing the issue. A risk assessment may be requested of the employer in support of this.

If discussions fail to resolve the problem satisfactorily, the Representative should involve members through communications and regular meetings and seek the support of the Federation or Local Association.

# Contract

Every employee has a 'contract' with her/his employer. An employment contract is an agreement between the employer and employee that sets out the rights and obligations of each party and, in particular, that the employer will pay wages in return for certain specified work carried out by the employee.

Contracts are enforceable in law and either side can sue for 'breach of contract' for any breach of contractual terms and conditions. Verbal contracts have the same status as written contracts but are harder to prove if disputed.

Teachers working in community and voluntary controlled schools have a contract with the LA. Teachers in voluntary-aided schools, foundation schools, trust schools, city technology colleges (CTCs), academies, free schools, sixth-form colleges and independent schools have a contract with the governing body or proprietor. The overwhelming majority of supply teachers are employed through an agency and/or umbrella company, which means they often have an overarching contract with the agency and/or umbrella company they work for. A smaller minority of supply teachers may be employed on contracts directly with a school or on a contract through a local authority pooled supply arrangement.

## What does a contract contain?

A contract contains the terms that specify the obligations of the individual employer to the employee and of the individual employee to the employer.

- An express contractual term is one that is clearly specified, orally or in writing. It might be, for example, the rate of pay being offered.
- An implied contractual term is one that is generally understood and that need not be made express. Judges will assume that these terms are present in a contract of employment whether they are made explicit or not. For example, it is assumed that the employee will give loyal service to the employer. Equally, it is assumed that the employer will not ask the employee to do anything illegal.
- Incorporated terms are usually derived from collective agreements between recognised trade unions and employers. If a recognised trade union makes an agreement with an employer altering the terms of a contract (e.g. the rate of pay), then the employment contracts of employees will be changed whether, individually, they agree or not. Some important collective agreements reached nationally by teacher trade unions, including the NASUWT, are gathered together in the *Conditions of Service for School Teachers in England and Wales*, otherwise known as the Burgundy Book because of the colour of its cover. This provides a set of enhanced terms and conditions for teachers on a range of issues not covered by the STPCD, such as maternity leave and pay and sick leave and pay.
- Statutory terms are those incorporated in the contract of employment by legislation. For example, all workers have a statutory right to minimum conditions relating to maternity, adoption, paternity or parental leave.

Teachers in the maintained sector are unusual in that many of the most important elements of their employment contract, such as pay, duties and hours of work, are decided by an Act of Parliament. These terms and conditions are contained in the STPCD. Some independent schools or academies may choose to adopt the Blue and Burgundy Book terms and conditions for teachers. Statutory terms in an employment contract override all others and cannot be varied.

- **Custom and practice** may result in a contractual obligation. If an employee gives an employer a service over a period on varied terms, then this could be deemed to have become part of the employment contract. However, the reverse is also true. Advice should be taken about potential legal arguments based on custom and practice. It is a perfectly respectable trade union argument.

One part of a contract that the law requires to be in writing is known as the 'Statement of Particulars'. An employer must give this written statement to every employee at the commencement of their employment. The statement must include the following information:

- the name of the employer and employee;
- the date when employment began and the period of continuous employment;
- scale of pay, pay intervals and how the pay is calculated;
- terms relating to hours of work;
- holiday entitlement (including public holidays);
- the job title or description;
- the place of work;
- rules relating to sickness or injury and sick pay;
- pension arrangements; and
- the employee's job title or brief description of the work.

Other information must also be given in writing within the two-month period, but these can be in separate statements. In some cases, the employee can simply be referred to other documents or statutes where the information can be found.

This information will include:

- whether the employment is permanent or for a fixed term;
- details of any collective agreements relating to conditions of service;
- notice requirements;
- disciplinary and grievance procedure;
- the name of the person to whom the employee can apply if s/he is dissatisfied with any disciplinary decision or seeking redress of any grievance relating to her/his employment.

### **Types of contract**

Most teachers are employed on a **permanent** contract either full time or part time. However, increasingly, some teachers are being employed on **fixed-term** contracts.

- A permanent contract has no termination date other than the normal date of retirement.
- An employee engaged on fixed-term contracts for a period of over four years must have their contract made permanent (unless the employer can objectively justify the continued use of fixed-term contracts).
- Schools should be encouraged to employ persons on fixed-term contracts only where there is an objective reason for so doing. Jobs that are intended to be permanent (and the NASUWT defines these as being for more than one year) should be filled by permanent contract holders rather than by fixed-term contracts that are then renewed.

### **Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014**

When a new employer takes over an existing workforce to carry on substantially the same business doing fundamentally the same activities, contracts, including continuity of employment,

they are transferred to the new employer by virtue of the TUPE regulations which were introduced in 2006. These regulations were updated in 2014. For example, teachers working in a community school which converts to academy status should normally transfer under TUPE and therefore continue to have all of the rights under their existing contract of employment, even though the employer has changed. This process is known as a transfer of undertaking.

Employment would effectively transfer to the new employer but under the terms and conditions agreed with the previous employer. TUPE is a complex area of law and expert advice should be sought from the NASUWT Regional Centre.

### **How can the contract be changed?**

Despite all of the complications discussed above, a contract of employment is essentially an agreement between the employee and the employer. There must be agreement between the parties if the terms are to be changed.

Unilateral changes in a contract are likely to be a breach of contract and the aggrieved party may be able to claim compensation through the Employment Tribunal or courts if the changes are substantial enough to warrant this.

The terms of a contract can be changed:

- if both sides agree to the changes;
- if an agreement is reached between an employer and the recognised trade unions; or
- if legislation is introduced, in which case a contract would change automatically.

### **Dismissal and re-engagement**

Some employers have used this device to force contractual changes on an unwilling workforce. If employees refuse to accept changes proposed by the employer, the new terms are simply imposed. If the proposed changes are significant, the law may regard the employees as having been dismissed and then offered their jobs back on the new terms. If the employees object, but in practice work under the new terms, the law will regard this as an acceptance of revised terms and the employee will lose the right to object.

For example, if an employer adds half an hour to the working day and employees complain bitterly but work to the new hours, they may forfeit the right in law to raise objections later as their conduct may be seen as an implied agreement to changed terms.

The new terms are incorporated into the contract by custom and practice. Employees have the option of refusing to accept the new terms and resigning their positions or continuing to work the original hours and risking dismissal, but because few employees can afford to be out of work, this puts great power into the hands of employers. Sometimes an employer's mere suggestion that refusal to accept unwelcome changes could result in the loss of a job is enough to whip employees into line.

How can employees be defended in such situations? There are two defences available to employees. One is a legal defence and the other is a trade union defence.

For some, when the axe has fallen, the legal route is the only option and the law around dismissal is discussed further below. However, often, the law does not provide an effective remedy and pursuing legal claims can be fraught with difficulty.

#### **For further information:**

Transfer of Undertakings (Protection of Employment) Regulations 2006

Collective Redundancies and Transfer of Undertakings Protection of Employment (Amendment) Regulations 2014

Far better, wherever possible, is the trade union defence. Where the Union is strong and active, employers think twice before attacking the working conditions of employees. Where they attempt to do so, they can often be defeated by a resolute collective response as NASUWT members have demonstrated time and again. This is why good, knowledgeable and active NASUWT Representatives play a crucial role in defending working conditions.

The NASUWT Representative can do two things:

- firstly, build up the size of the union group in the school/college by active recruitment. A large union group is better placed to resist unwelcome change than a small group;
- secondly, maintain the morale and collective sense of the membership by ensuring that they are well informed, well represented and encouraged to participate in the Local Association and school/college activities of the NASUWT.

**This is why teachers must belong to a strong trade union so that they can act collectively to protect their job security.**

Any teacher contemplating taking on duties other than those specified in the STPCD, or taking on a fixed-term contract, or who has any other concerns, should consult the Local Association Secretary first.

### **Dismissal in law**

The Employment Rights Act 1996 provides protection against unfair dismissal. Dismissal is the termination of a contract of employment by an employer. The dismissal can be explicit, with the employer informing the employee that s/he is dismissed, or the employer can behave in such a way that the employee has no option but to leave due to a fundamental breach of the contract. The latter case is known as 'constructive dismissal'. These are notoriously difficult legal claims and expert advice should be sought from the Regional Centre before members resign with the intention of seeking to bring this type of claim to the Employment Tribunal.

In law, a dismissal can be for one of the following potentially fair reasons:

- conduct;
- capability/competence;
- redundancy;
- a statutory restriction;
- some other 'substantial' reason.

If a potentially fair reason for dismissal has been established, a Tribunal will then consider whether the dismissal was fair or unfair having regard to all of the circumstances of the case, including the size and administrative resources of the respondent employer and whether the employer acted reasonably or unreasonably in treating that as sufficient reason for dismissing the employee. This 'test' includes whether a fair procedure was followed.

It is sometimes referred to as the range of reasonable responses test. This essentially means that a Tribunal must decide whether no reasonable employer could have decided to dismiss in those circumstances, even if the Tribunal thinks the decision was harsh and would not have reached such a view themselves. The Tribunal must not substitute its own view for that of the employer when considering the fairness of a dismissal.

Unfair dismissal cannot be brought unless the employee has worked for their employer for at least two years, if employment commenced after 6 April 2012 (and one year for employment started prior to this date). This is known as the 'qualifying period'. Service with a previous 'associated' employer can be counted as the qualifying period for some employment rights, e.g. working for different schools under the same LA. Employees on a fixed-term contract who have completed the minimum continuous employment with the same (or an associated)

employer have the same employment rights as employees with a permanent contract. A fixed-term contract that is renewed immediately upon termination clearly establishes continuity. Even temporary breaks between termination and renewal can sometimes be regarded as not breaking continuity. For example, a teacher employed for some years on a succession of 'term-time only' fixed-term contracts may still be regarded by the courts as having continuity of service. Courts or the Employment Tribunal will judge each case on its merits.

However, workers who are dismissed for any of the reasons below may take a complaint to an Employment Tribunal even if they have been employed for only one day.

There is no qualifying period if the dismissal is because of the following and is, therefore, deemed to be automatically unfair:

- they are pregnant or on maternity leave and are dismissed for a reason connected with this;
- they are a trade union member and/or play an active part in the Union (e.g. by being a representative);
- they have refused to join a trade union;
- they have taken legal action against their employer to force the employer to give them their entitlements in law (asserting a statutory right);
- they have refused to do something because there is a serious and imminent threat to their health and/or safety or because they have carried out any functions as a Health and Safety Representative;
- they have brought to public notice some malpractice in the workplace ('whistleblowing');
- they are representing employees in consultations on redundancy or business transfer in a non-unionised workplace;
- they are pension fund trustees;
- they have represented a fellow worker at a grievance or disciplinary hearing or have asked to be accompanied at such a hearing;
- they have campaigned either for or against union recognition;
- enhanced protections against dismissal for taking part in strike action - employees will be safeguarded from unfair dismissal when participating in industrial action, regardless of how long the strike lasts, following the removal of the previous 12 week limit.

A claim for unfair dismissal must be brought within three months less one day of the dismissal, referred to as the 'effective date of termination'. It is important to note that the early conciliation (EC) requirement (also known as mandatory Acas early conciliation) now places an obligation on a prospective claimant to contact Acas with certain information prior to submitting a claim in the Employment Tribunal. The notification to request EC must be submitted before the original time limitation expires. If pre-claim settlement cannot be achieved, Acas will issue a certificate with a unique reference, which is necessary before Employment Tribunal proceedings can be commenced. Time limitation for pursuing a legal claim is effectively paused whilst the conciliation process is ongoing. However, time limitation can be complex to calculate and therefore any potential Employment Tribunal claim should be referred to the Regional Centre at the earliest opportunity.

**For further information:**

- *A Voice in Every Workplace Pack*
- *NASUWT Noticeboard Pack*
- *Communicate to Recruit (online resource) (NASUWT)*

# Cover

Under the STPCD provisions introduced in 2009, teachers may only be required to cover rarely and in unforeseen circumstances. Every school should have in place a clear policy and 'robust system' that does not require teachers or the headteacher to provide cover other than rarely. A robust system is one that delivers this contractual entitlement and would be expected to deal with all foreseeable events, but would not be expected to deal with unforeseeable events. When devising strategies to implement 'rarely cover', schools should bear in mind that 'rarely' does not mean 'never'.

Rarely cover is operated appropriately by the majority of schools, and there is no reasonable excuse for not abiding by the contractual provisions.

In addition, representatives should bear in mind there is no set timetable load in the STPCD; therefore, there is no such thing as being 'under timetabled'. This cannot be used as an excuse to use teachers for cover.

Detailed guidance on the operation of the rarely cover provisions in the STPCD can be found on the NASUWT website under 'Pay, Pensions and Conditions'.

**Further details on this can be found at:  
[www.nasuwt.org.uk/advice/cover](http://www.nasuwt.org.uk/advice/cover).**

**For further information:**

*Rarely Cover Survey (NASUWT)*

# Curriculum and Assessment

The National Curriculum sets out specified, core curriculum subjects that must be taught to primary age children in maintained schools. However, there is a considerable degree of flexibility in the interpretation of the primary curriculum and teachers should be allowed the scope to make appropriate use of their professional discretion in determining approaches to teaching and learning. The National Curriculum is not mandatory in academies and free schools but, in practice, most schools draw upon it to a significant extent. Teachers should not be expected to meet unreasonable demands in planning and delivering a curriculum.

It is important to note that there are no statutory time allocations for National Curriculum subjects. Representatives monitor programmes of study and work to ensure that approaches adopted are non-bureaucratic and do not place additional planning and assessment requirements on teachers.

## Teaching and Learning – Assessment

At the earliest stage of their education, pupils' progress in England is monitored through the Early Years Foundation Stage Profile (EYFSP) – a statutory assessment that the NASUWT advises should serve as the sole record for the pupil, providing a report to parents and information for other teachers, the school and LA.

In relation to Key Stage 1, schools only need to report the results of teacher assessment. The outcome of tests/tasks are used to inform teacher assessment. The NASUWT's work with members continues to demonstrate that poorly managed moderation and evidence gathering by some LAs and schools can create significant workload and bureaucratic burdens. It is essential that NASUWT Representatives in schools with pupils in Key Stage 1 monitor the impact of arrangements in place for statutory assessment at the end of the Key Stage.

All marking of Key Stage 2 National Tests in England is undertaken by external markers. Teachers should not agree to carry out 'optional' tests, assessments or trials, or complete the application forms requesting additional time for those pupils who require it.

The NASUWT has secured important provisions in the statutory moderation guidance on Key Stage 1 and 2 assessment to address important workload-related and manageability concerns. This guidance can be accessed from the Standards and Testing Agency at: <https://www.gov.uk/government/organisations/standards-and-testing-agency>.

Problems or concerns should be reported to the appropriate Local Association Secretary without delay.

## Marking, planning and assessment

In 2016, the Teacher Workload Review Group published three reports on the workload implications of planning, marking and data management, including assessment in schools. A follow-up report and data assessment, *Making Data Work*, was published in 2018.

These reports contain specific recommendations for schools on the use of summative and formative assessment data, lesson planning and schools' marking and feedback policies. The DfE and Ofsted accepted the findings of these reports in full and they are reflected in the current Ofsted inspection framework and school inspection handbook.

The reports do not address all the issues highlighted by the NASUWT in respect of marking, planning and assessment. However, the reports identify steps that schools can, and should, take to improve their assessment, planning and marking practices, and the Union expects these steps to be adopted in every school. Copies of the reports are available from the NASUWT website at: <https://www.nasuwt.org.uk/advice/conditions-of-service/workload.html>.

# Disciplinary Action

**Members facing disciplinary action may approach NASUWT Representatives for assistance. The Local Association Secretary is always there for advice and should always be informed if any member is anticipating or facing disciplinary action. Allegations of 'gross misconduct' should be referred to the appropriate Regional Centre immediately, as this could result in dismissal.**

All schools must have a written Disciplinary Procedure that has been adopted by the relevant governance. All employees must have access to this procedure.

- An informal reprimand or telling-off is not part of a formal procedure and should not be recorded.
- Formal procedures generally have a number of possible sanctions, ranging from an oral warning (which is recorded) up to summary (immediate) dismissal in the case of gross misconduct. It is vital that Representatives ascertain as soon as possible the stage of the procedure being invoked.
- If a period of suspension with pay is considered necessary (and all other possible alternatives have been duly considered), this period should be as brief as possible and should be kept under review, while it should be made clear that the suspension is a neutral act.
- Members should be advised not to submit any written statement until they have sought advice and guidance from the NASUWT.
- A Disciplinary Procedure must allow members facing discipline to be accompanied by a trade union representative or another worker. In the early stages of the procedure, this may be the NASUWT Representative, although the Local Association Secretary must be consulted first. The law requires any trade union representative participating in disciplinary procedures to have special accreditation from their trade union. (Accreditation is gained through attendance at appropriate NASUWT training courses.)
- The law further requires that if a worker's chosen companion will not be available at the time proposed for the hearing by the employer, the employer must postpone the hearing to a time proposed by the worker, provided that the alternative time is both reasonable and not more than five working days after the date originally proposed, although there may be circumstances where this is altered by mutual consent.
- The task of the NASUWT Representative is, first and foremost, to ensure that the member gets all their entitlements under the procedure and that the procedure is adhered to closely. NASUWT Representatives should make a careful note of everything that happens in any hearing they attend.
- Formal warnings imposed by an employer should be time limited (usually six or 12 months, depending on the severity) – a member who has been disciplined should request sight of their personnel file to see that any expired record has been expunged.
- Employers should follow the Acas Code of Practice on Discipline and Grievance, which sets out good practice. This includes informing the employee in writing of the issue, holding a meeting to discuss the problem, at which the employee has a statutory right to be accompanied by a trade union representative or another worker, and providing the employee with an opportunity to appeal the outcome.

A failure to follow the Code does not, in itself, make the employer liable to legal proceedings. However, Employment Tribunals will take adherence to the Code into account. An unreasonable failure to comply with the Code by either party may result in the adjustment of any Tribunal award by up to 25 per cent.

NB. The Code does not apply to redundancies or a non-fixed-term contract.

**Disciplinary procedures apply to matters of conduct; if a teacher's competence is being questioned, this should be dealt with under an agreed capability procedure. Refer to the section on Capability (page 41).**

**For further information:**

*Acas Code of Practice on Disciplinary and Grievance Procedures (2015): [www.acas.org.uk](http://www.acas.org.uk)*

*NASUWT Casework Code of Practice*

Note that The Data Protection Act allows individuals to see any personal information about them held on file (see Capability, page 41)

# Disclosure and Barring Service

The Disclosure and Barring Service (DBS), an amalgamation of the former Criminal Records Bureau and the Independent Safeguarding Authority, is responsible for criminal records checks (DBS certificates) and barred list checks.

The main source of the DBS's information is the Police National Computer (PNC), which contains details of convictions, cautions, reprimands and warnings in England and Wales. It can also contain 'non-conviction' or 'approved' information, also referred to as 'soft information'. In addition to this, the DBS maintains the barred lists of those individuals considered unsuitable to work with children and/or vulnerable adults, and will check against these lists where appropriate.

## Enhanced Disclosure Certificates

The Enhanced Disclosure with a barring list check is the highest level of check provided by the DBS and is for those working in 'regulated activity'.

Statutory Government Guidance advises that for most appointments in an education setting, an enhanced DBS certificate, which includes barred list information, will be required, as the majority of staff will be engaging in regulated activity. In summary, a person will be considered to be engaging in regulated activity if, as a result of their work, they:

- will be responsible, on a regular basis in a school or college, for teaching, training, instructing, caring for or supervising children;
- will carry out paid, or unsupervised unpaid, work regularly in a school or college where that work provides an opportunity for contact with children; or
- engage in intimate or personal care or overnight activity with children, even if this happens only once.

In a school or college, a **supervised** volunteer who regularly teaches or looks after children is not in regulated activity.

The Enhanced DBS check will reveal:

- whether the person is banned from working with children because they are included on the barred list of those persons considered unsuitable to work with children;
- details of any spent and unspent convictions as well as cautions, warnings and reprimands held at a national level by the police;
- non-conviction/approved information held on local police records that the Chief Police Officer determines is relevant to the post the person has applied for.

### For further information:

*The Disclosure and Barring Service*

[www.gov.uk/government/organisations/disclosure-and-barring-service](http://www.gov.uk/government/organisations/disclosure-and-barring-service)

Any relevant information will be recorded on the DBS certificate that is now sent to the applicant, rather than directly to the employer. The applicant must show the original DBS certificate to their potential employer before they take up a post or as soon as practicable afterwards.

The DfE's statutory guidance document, *Keeping Children Safe in Education*, states that: *'there is no requirement to obtain an enhanced DBS certificate or carry out checks for events*

*that may have occurred outside the UK if, in the three months prior to their appointment, the applicant has worked in:*

- *a school in England in a post which brought them into regular contact with children or young persons in any post in a school since 12 May 2006; or*
- *an institution within the further education sector in England or in a 16-19 Academy, in a post which involved the provision of education which brought the person regularly into contact with children or young persons.'*

*All other 'pre-appointment checks must still be completed, including where the individual is engaging in regulated activity, a barred list check. Schools or colleges may also choose to request an enhanced DBS certificate should they wish to do so.'* (Paragraph 66)

The DBS now operates an 'Update Service' which allows an individual to register for the service at the point of an application for a new DBS check, for a small annual fee. This is intended to provide portability of a certificate across employers, thereby removing the need to apply for multiple certificates when an individual moves from one job to another in the same workforce. With the individual's permission, an employer can check the certificate online to see if there has been any new information since the certificate was issued or whether it remains current. It is particularly useful for supply teachers. Individuals will be able to see a full list of those organisations that have carried out a status check on their account.

### **Challenging the content of DBS certificates**

The Protection of Freedoms Act 2012 introduced a more rigorous 'relevancy' test to be applied by the police when determining whether or not to disclose 'non-conviction' information on a Disclosure. In determining the relevancy of information for the purposes of disclosure, the test was changed from information which the police believed 'might be relevant' to information that the Chief Police Officer 'reasonably believed to be relevant' to the post applied for, and therefore ought to be included in the certificate. In practice, the decision to disclose non-conviction information is still based on the judgement of the relevant police.

The Protection of Freedoms Act 2012 also provided for statutory government guidance to be issued to the police on disclosure. Home Office guidance stipulates that in any case where a Chief Police Officer is minded to provide information for inclusion in a certificate or is uncertain whether to do so, they should consider whether the applicant should be offered the opportunity to make representations before the information is submitted.

In practice, as the decision to disclose non-conviction information is still based on the judgement of the relevant Chief Police Officer, it remains difficult to successfully challenge the disclosure of non-conviction information, unless it is factually inaccurate or there are strong grounds to argue the information is not relevant to the post applied for. Disputes must be raised via the DBS in the first instance.

There is also an appeals process via the Independent Monitor, who can conduct an independent review and issue directions to the police. The DBS certificate will be corrected if the Independent Monitor agrees with the appeal. However, a member must raise a dispute with the DBS before a referral to the Independent Monitor is made.

If a member believes the information contained in their Enhanced Disclosure is inaccurate or irrelevant, members in England should call the Member Support Advice Team on 03330 145550, and members in Wales, Scotland and Northern Ireland should contact their respective National Centre. A copy of the Disclosure will be required. In the first instance, it is likely the member will have to engage with the DBS Disputes process within three months of the date of the Disclosure. Further details can be obtained from <https://www.gov.uk/disclosure-barring-service-check/appeals-and-disputes>.

## Confidentiality

It is a criminal offence to make an unauthorised disclosure of information contained on a DBS certificate. However, information can be passed from a LA to a school's governing body pursuant to their duties. The DBS issued the Revised Code of Practice for Disclosure and Barring Service Registered Persons in November 2015, which provides further guidance on handling and storing such information.

### **For further information:**

*Keeping Children Safe in Education* – Department for Education (2021)

*Statutory Disclosure Guidance* – Home Office (August 2015)

*Revised Code of Practice for Disclosure and Barring Service Registered Persons* – Home Office (November 2015)

## Barring

The DBS also operates the barred lists: the children's barred list and the vulnerable adults' barred list. These single lists replaced List 99, Protection of Children Act (PoCA), Protection of Vulnerable Adults (PoVA) and Disqualification Orders regimes.

In most instances, if the DBS is minded to bar an individual, they will normally be given the right to make representations as to why they should not be included on the barred lists.

Convictions or cautions for certain serious offences (referred to as relevant offences) will lead to an automatic bar with the right to make representations. The most serious offences do not permit the right to make representations. More information on 'relevant offences' is available at: [www.gov.uk](http://www.gov.uk).

A person on the barred list cannot undertake regulated activity, which would include teaching and most work within a school.

The Safeguarding Vulnerable Groups Act 2006 remains in force and provides that:

- a person who is barred from working with children or vulnerable adults will be breaking the law if they work or volunteer, or try to work or volunteer, with those groups;
- an organisation that knowingly employs someone who is barred to work with those groups will also be breaking the law;
- if a member of staff who works with children and/or vulnerable adults is dismissed or a volunteer is removed because they have harmed a child or vulnerable adult, or would have done so if they had not left, there is a statutory duty on the employer/organisation to make a referral to the DBS.

A referral will also be made where an individual has received a caution or conviction for a relevant offence.

If a member is referred to the DBS for barring consideration, the member should be advised to contact the Regional or National Centre.

Matters that are not child protection-related and would not therefore fall within the remit of the DBS are referred to the relevant regulatory body, in the case of teachers, the National College for Teaching and Leadership in England.

# Educational Visits and Learning Outside the Classroom

When they are properly organised and relevant to the curriculum, educational visits and Learning Outside the Classroom (LOtC) activities can enable pupils to be more engaged and enthusiastic learners.

Because of the great personal and professional risks involved, members should always be advised not to participate in visits and journeys that are non-contractual, do not have clear educational outcomes and do not require the exercise of the teacher's professional skills and judgement. If members ignore this advice, then every effort should be made to minimise the risk.

All LOtC activities must be approved by the school in accordance with local procedures. Governing bodies of all types of school should ensure that the visit has a specific and stated objective and that the headteacher/principal shows how arrangements comply with all relevant regulations and guidelines, including the school's own health and safety policy and, where applicable, the LAs, and that the headteacher/principal/group leader reports back after the visit. It is good practice for each school to have an Educational Visits Co-ordinator (EVC). The role of the EVC does not require the professional skills and judgement of a qualified teacher.

Headteachers/principals should ensure that visits comply with regulations and guidelines provided by the governing body and, for maintained schools, the LA as well as the school's own health and safety policy.

Some activities that pose a higher risk, such as caving, climbing and watersports, should only be undertaken by a provider that is registered with the Adventure Activities Licensing Authority (see <https://www.hse.gov.uk/aala/>).

Headteachers/principals should ensure that the group leader is competent to monitor the risks throughout the visit, that appropriate risk assessments have been completed and that adequate safety measures are in place. Appropriate risk assessments must be undertaken for all educational visits and LOtC activities. Risk assessments should only be undertaken by legally competent, appropriately qualified and experienced persons.

EVCs should satisfy themselves that the following points have been covered.

- All supervisory duties must be carried out with the greatest of rigour. Courts expect teachers to exercise a greater degree of care than would be expected of a careful parent and take the view that teachers accompanying the school party carry ultimate responsibility.
- EVCs must be confident that their own training, qualifications and experience and that of other staff are adequate to meet the varied demands of the proposed visit.
- EVCs must be able to demonstrate that an adequate risk assessment of each proposed activity has been carried out in advance and that all reasonable steps to eliminate foreseeable dangers have been taken.
- EVCs must ensure, in advance, that they have written confirmation that they are conducting the activity on behalf of the employer and that the employer carries sufficient insurance to cover the team leader and other staff against all claims. EVCs should satisfy themselves that the terms of such insurance cover have been checked.
- All staff should strictly follow all relevant government guidance, and guidance provided by the employer, LA or governing body, as well as the advice given by the NASUWT.
- EVCs should visit the location of the proposed visit in advance to assess the likely risks, or be satisfied that adequate risk assessments have been undertaken by a competent person, preferably in the LOtC Quality Badge Scheme.

- EVCs must ensure that the SEN (including behavioural problems) and the medical needs of children have been properly taken into account. EVCs must have the final decision on the inclusion of any pupils whose potential behaviour could pose a risk to themselves or others, or whose medical needs could place an unacceptable burden of responsibility on accompanying staff. A risk assessment of violent and abusive behaviour must be undertaken where there is the potential of harm to others. Members need to be aware that such decisions may be subject to provisions within SEN and disability legislation.
- Where children are to be placed in the care of other adults, EVCs must ensure that proper child protection issues have been addressed by the employer, including appropriate DBS checks.
- EVCs must satisfy themselves that all adults in the party are fit persons to be in charge of children and that they are fully informed about the roles they are expected to fulfil and have received appropriate training.
- All teachers in a party must remain aware of the great increase in allegations of child abuse being made against themselves and others and must not place themselves in the position of being alone with a child.
- Any member who is not satisfied with the adequacy of the arrangements for a visit with which they are involved should report their misgivings to the EVC in the first instance and to the NASUWT and their employer if matters are not satisfactorily resolved.

#### **Directed time**

- All LOtC activities should be counted against directed time, except where additional payments are made to a teacher for out-of-school-hours learning activities.
- Adequate staff cover, which does not place a burden on teaching staff, should be a precondition of an educational visit or journey taking place.

#### **Use of teachers' own vehicles**

Members should be advised that they should not use their own vehicles to transport pupils, for example, to events or for medical treatment. Such practice makes a teacher vulnerable to the risk of:

- malicious allegations; and
- serious legal repercussions if, in the event of an accident, their motor insurance does not have the appropriate cover.

#### **Learning Outside the Classroom Quality Badge**

Health and safety with regard to LOtC is of fundamental importance to schools. The Learning Outside the Classroom Quality Badge, launched in October 2008, represents an important step towards minimising the risk of LOtC activities and improving schools' access to high-quality LOtC providers. The Quality Badge enables schools to identify providers who are reputable and manage risks appropriately.

Schools often raise the administrative burdens associated with planning LOtC activities. The Council for Learning Outside the Classroom has also produced a range of resources that are helpful in this respect.

#### **Government guidance**

Representatives should also note the guidance set out in the DfE publication, *Health and safety: advice for schools*. The Outdoor Education Advisers' Panel and the Council for Learning Outside the Classroom have helpful advice and guidance about the management of health and safety issues. Further information is also set out in the HSE publication, *School trips and outdoor learning activities: tackling the health and safety myths*.

# Equal Opportunities

The NASUWT is committed to challenging discrimination, inequality and intolerance and recognises that schools/colleges play an essential role in this work. The Union has produced advice and information for members in respect of a wide range of equality issues. Many of these publications are designed to provide practical advice to ensure that equality is embedded in all areas of school life.

NASUWT Representatives are advised to ensure that their school/college has an equal opportunities policy and that this complies with NASUWT advice/guidance that specifies:

- they are consulted on the development and implementation of the equal opportunities policy prior to adoption by the governing body;
- their school/college undertakes regular monitoring and reviews of the policy, with a view to identifying and dealing with any trends or issues of concern.

Governing bodies of schools, colleges and other education institutions have responsibilities for developing and maintaining agreed equal opportunities policies to ensure that all staff, pupils and parents/carers are treated in a fair and non-discriminatory manner. The equal opportunities policy should be disseminated to all staff, pupils at the school and parents/carers. All staff should receive training in respect of the policy so that they are familiar with it and understand what is expected of them. Employers are required to comply with a number of legislative obligations in respect of equal opportunities practice, which are outlined below.

## Equality Act 2010

The Equality Act, which came into force in October 2010, harmonises and replaces the following legislation: the Equal Pay Act 1970; Sex Discrimination Act 1975; Race Relations Act 1976; Disability Discrimination Act 1995; Employment Equality (Religion or Belief) Regulations 2003; Employment Equality (Sexual Orientation) Regulations 2003; Employment Equality (Age) Regulations 2006; Part 2, Equality Act 2006; and the Equality Act (Sexual Orientation) Regulations 2007. (The Equality Act 2006, in so far as it relates to the constitution and operation of the Equality and Human Rights Commission (EHRC), remains in force.)

Underpinning the Equality Act 2010 are the key concepts of 'protected characteristics'. The nine protected characteristics, on grounds of which it is illegal to discriminate, are:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

Employees should therefore be protected by their employer from the following actions:

- direct discrimination – acts of overt discrimination to a person's detriment, such as denying them promotion on the basis of a protected characteristic;

- indirect discrimination – a discriminatory provision, criterion or characteristic, such as a promotion requirement or working pattern that cannot be objectively justified;
- discrimination arising from disability – for instance, a capability procedure that arises from a person’s disability-related absences;
- harassment – acts of unwanted conduct that threaten or violate a person’s dignity, such as making unreasonable demands, bullying or ‘stalking’;
- victimisation – particularly after making a complaint about discrimination or lodging a claim at an Employment Tribunal;
- a failure to make reasonable adjustments in order to accommodate a person’s disability.

This duty of protection also includes the harassment of an employee by a third party; for instance, a contractor carrying out work on a school site who abuses a member of staff.

The NASUWT believes all schools and colleges should audit and review all of their existing policies and procedures to ensure that they comply with the Equality Act 2010 as well as with the relevant education codes of practice and guidance issued by the EHRC in England, Scotland and Wales.

From April 2011, the Act also introduced a single Public Sector Equality Duty (PSED), which applies to schools. Maintained schools, including PRUs (in England) and academies, are public authorities and will be subject to the PSED. Schools have obligations under the Act in three aspects of their activities: as employers; as bodies that carry out public functions; and as service providers. In summary, those subject to the general quality duty must, in the exercise of their functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and those who do not.

Existing policies, procedures or practices should be evaluated to ensure that they comply with the PSED and General Equality Duty.

### **Special Educational Needs and Disability**

In England, the SEND Code of Practice: 0 to 25 years (January 2015) provides statutory guidance about what schools, colleges, LAs, clinical commissioning groups (CCGs) and other education, training, health and social care providers must and should do to identify, assess and make provision for children and young people who have special educational needs (SEN) and/or disabilities (SEND). The Code applies to provision for children and young people with SEND from birth up to the age of 25.

Schools must appoint a special educational needs co-ordinator (SENCO) to co-ordinate provision. The Code of Practice makes it clear that class teachers have a key role to play in identifying and meeting the needs of children and young people with SEN and that the role of SENCO should be a strategic one.

LAs and CCGs must make joint commissioning arrangements for Education, Health and Care (EHC) provision for children and young people with SEND, and partners (which may include schools and colleges) must agree how they will work together. The Code of Practice requires schools and colleges to engage children, young people and their parents in decision making.

It requires schools to prepare and maintain a School Information Report (which includes information about SEN provision at the school) and LAs to develop and maintain a Local Offer setting out what support is available for children and young people with SEND. The Code sets out the steps that should be taken to assess, plan and meet the needs of children and young people with SEN, including preparing and maintaining an EHC plan.

The current SEND frameworks have significant implications for SENCOs, school leaders and teachers. There is a significant risk that they can increase excessive and unnecessary workload burdens and lead to the development of bureaucratic and cumbersome systems of assessment and monitoring. There is also a concern that cuts to LA services will mean that staff in schools and colleges cannot access specialist information, advice and support. NASUWT Representatives should refer to the NASUWT guidance documents, *Special Educational Needs and Disability: advice for teachers* and *Special Educational Needs and Disability: advice for school leaders* so that they are familiar with the main provisions of the SEND Code of Practice and NASUWT guidance on the SEND framework.

### **Equality and Human Rights Commission**

The EHRC, a statutory body established by the Equality Act 2006, brings together the work of the three previous commissions: the Commission for Racial Equality (CRE), the Disability Rights Commission (DRC) and the Equal Opportunities Commission (EOC). It enforces equality legislation on age, disability, health, gender, race, religion or belief, sexual orientation and trans status, and encourages compliance with the Human Rights Act 1998.

### **Implications for NASUWT Representatives**

As well as ensuring that their local school/college/service complies with the provisions listed above, NASUWT Representatives may be approached by individual members for advice. The NASUWT Casework Code of Practice must be followed and members should be advised to keep diary records of incidents and to pursue issues via the appropriate school or college policy. If an NASUWT member raises an issue of possible discrimination on any of the nine protected characteristics contained in the 2010 Act, NASUWT Representatives are advised to seek advice from the Local Association Secretary or the NASUWT Regional Centre.

NASUWT Representatives should ensure that members are encouraged to record and report all forms of bullying and harassment, regardless of nature, to school management so that effective action can be taken. All reported cases of discrimination should be referred to the Local Association Secretary or Regional Centre.

The NASUWT runs a dedicated training course on 'Discrimination Casework' designed to equip caseworkers with practical skills and knowledge for identifying and tackling discrimination cases. This is an essential course for all caseworkers to attend as it covers the Union's legal avenue for addressing discrimination casework, as well as an overview of discrimination law and how this should be applied in practice.

NASUWT Representatives should show members that the NASUWT is a leader on equality issues. This can be done by keeping them up to date with the equalities work of the Union and by promoting the Union's successful Consultation Conferences for under-represented members. Further information can be found on the Union's website. Local Associations have elected Equalities Officers who will also be able to give you up-to-date information on equalities issues.

NASUWT Representatives should note that much of the above legislation also applies to the NASUWT as a trade union/employer organisation. In many cases, it is unlawful to discriminate against a person by refusing or deliberately omitting to accept an application for membership on grounds of their gender, ethnic origin, marital status, sexuality or disability.

# Equal Pay

Schools and academy trusts must abide by the requirements of equal pay legislation which is now contained within the Equality Act 2010, pt 5, ch 3. This is headed 'Equality of Terms' and incorporates the provisions of the Equal Pay Act 1970. Employers must ensure that they do not discriminate in respect of pay on the following grounds, which are known as 'protected characteristics' under the Equality Act 2010:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy (including maternity leave);
- race;
- religion or belief;
- sex;
- sexual orientation.

From 2013 onwards, the Government introduced significant pay discretions for schools into the teachers' pay framework, including discretions over pay progression and the starting pay for new appointees.

Research commissioned by the NASUWT indicates that there is a significant discriminatory impact of these pay flexibilities on teachers with protected characteristics. The DfE's schools workforce data also indicates this, which is unacceptable to the NASUWT. It is also unacceptable to the NASUWT that the gender pay gap shows no sign of closing.

The Equality Act 2010 places a PSED on schools and academy trusts to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it;
- foster good relations between people who share a relevant protected characteristic and people who do not share it.

Prompted by the NASUWT, and achieved by the NASUWT national action, the DfE has issued detailed guidance to schools and academy trusts about the equalities monitoring which employers must carry out of teachers' pay patterns, including the impact of pay progression decisions. The NASUWT has also issued detailed advice to NASUWT Representatives on this issue. The DfE and NASUWT advice is available from the Union on request.

NASUWT Representatives should request full and comprehensive information to monitor the equality impact of pay and employment practices, using the Union's advice documents to support the request for information.

NASUWT Representatives should audit their school or academy trust's pay and performance management policies against the teacher appraisal, classroom observation and pay policies

national action checklists, seeking the assistance of their Regional Centre and National Executive Member, as appropriate. The provisions of the NASUWT national action checklists ensure that the pay and performance management arrangements in the school or academy trust do not unlawfully discriminate. In circumstances where pay and performance management policies are not compliant with the national action checklists, assistance should be sought from the Regional Centre.

NASUWT Representatives should be alert to performance pay being withheld from teachers because they are on maternity leave, off work for a pregnancy-related reason or because they are off work for reasons of disability. Such practices are discriminatory.

If the NASUWT Representative suspects that discrimination against a teacher with a protected characteristic is occurring, or equalities monitoring information indicates that different teacher groups with protected characteristics have different patterns of pay progression, this must be referred to the NASUWT Regional Centre without delay.

School governors must abide by the requirements of equal pay which is now contained within the Equality Act 2010, pt 5, ch 3, which is headed 'Equality of Terms' and largely replicates the Equal Pay Act 1970.

School governing bodies also have a written pay policy that ensures that similar posts carrying similar levels of responsibility are rewarded equally and all staff are treated equitably. The NASUWT has published a model policy agreed by the majority of teacher unions and the DfE.

The union representative does have the right to request information necessary to monitor the effects of pay and employment practices. The NASUWT Representative should know the school salary structure.

A complainant could refer to a similar post in another LA school as a comparator.

NASUWT Representatives should refer any case of suspected pay discrimination to their Local Association Secretary, who will refer the case as appropriate. An equal pay questionnaire to help assess a claim is available from Negotiating Secretaries or NASUWT Headquarters.

# Family Leave (time off for family and dependants)

Legislation gives employees the right to maternity, paternity, adoption, shared parental leave, parental and dependant leave. See page 72 for rights to maternity, paternity, adoption leave and shared parental leave.

In addition to this, employees have the right to a 'reasonable' amount of time off (usually unpaid) to deal with unforeseen matters and emergencies involving dependants who rely on the employee for care.

A 'dependant' includes a spouse, child, parent, someone living in the same house who is not an employee or lodger and anyone who 'reasonably relies' on the employee.

Unpaid time off can be taken in circumstances where:

- a dependant falls ill, gives birth or is injured or assaulted;
- arrangements have to be made to care for a dependant who is ill or injured;
- care arrangements have broken down;
- there is a problem at school.

There may be local agreements that provide more than the minimum requirements in these circumstances (e.g. paid time off).

Employees have to tell their employers as soon as possible why and for how long they will be absent. A complaint can be made to an Employment Tribunal if the employer unreasonably refuses the time off.

Employees who take time off for family and dependants have the right to protection against dismissal, unfair selection for redundancy or detrimental treatment for any reason connected with time off for family and dependants.

In addition, parents who have a child that dies before they turn 18, or have a stillbirth after 24 weeks of pregnancy, may be eligible for Parental Bereavement Leave. This includes two-weeks' leave and statutory bereavement pay, although many employers enhance this to full pay. Further details can be found at: <https://www.gov.uk/parental-bereavement-pay-leave>.

# Flexible Working

Flexible working is a way of working that suits the needs of the employee.

It is a way of sharing, staggering or breaking up the normal working day or week in order to improve work/life balance.

All employees (not just parents or carers) have the legal right to request flexible working if they have worked for the same employer for at least 26 weeks.

The law does not give an automatic right to flexible working, but employers must respond to requests. A teacher can only make a request under the legislation once in any 12-month period.

The employer has to consider seriously a request for flexible working in a 'reasonable manner', which involves weighing up the benefits for the employee and the school/college against any potential adverse business impact.

Decisions regarding requests and appeals must be made within three months of the request being made.

If the employer accepts the request, or accepts it with modifications, they should write to the employee confirming the decision and start date no later than 28 calendar days after the request was approved.

The employer should write to the employee notifying them of the variation to their contract (e.g. working hours and pay) and the fact that this is a permanent change to their terms and conditions.

If the employer rejects the request, they must have a sound business reason for doing so, which should be conveyed in writing. If the employer rejects the request, there should be a right of appeal.

The NASUWT has produced advice and guidance which can be found at: [www.nasuwt.org.uk/FlexibleWorking](http://www.nasuwt.org.uk/FlexibleWorking).

**There may be local or school arrangements which are better than the entitlements listed above.**

**It is important that you check and request a copy of the flexible working policy in operation.**

# Governing Bodies

School governing bodies derive their authority from legislation and from the 'Instrument of Government' appertaining to their school. NASUWT Representatives need to understand the powers of governing bodies in relation to teaching staff.

## Community schools

The LA remains the employer, but governing bodies will decide:

- the spending of the school's budget;
- staffing structures (subject to the STPCD);
- the number of teachers (and other staff) employed;
- recruitment and dismissal of staff;
- salary levels and allowances (subject to the STPCD);
- staff discipline and grievance procedures.

In addition, governing bodies must have policies on equal opportunities, health and safety, performance management and pay.

## Voluntary-aided schools

VA school governors are employers in their own right. They have additional duties, including additional health and safety responsibilities, as the employer. Governors of LA and VA schools often adopt existing LA policies and procedures.

## Foundation schools, including those which have acquired a trust

Governing bodies are the employers and, therefore, in addition to the powers described above, have more wide-ranging powers and responsibilities such as:

- the spending of the whole school budget;
- complete control over numbers of staff employed and pay levels (within the STPCD, unless the school has written permission from the Secretary of State for Education to opt out of national arrangements using the power to innovate);
- health and safety policy and arrangements.

## Academies

Academies are the employers and have even more wide-ranging powers than foundation schools, including the power to employ teachers on terms and conditions outside of the STPCD, unless they transfer from a maintained school that is being replaced by the academy, in line with the TUPE regulations. The governance arrangements in academies and free schools can vary widely and it is important that the specific arrangements that apply to such schools are checked if these arrangements are giving rise to grounds for concern. Expectations on academy and free school governance are summarised in the DfE publication, *Governance Handbook*, available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/925104/Governance\\_Handbook\\_FINAL.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925104/Governance_Handbook_FINAL.pdf).

## Consultation and negotiation

NASUWT Representatives should try to have established proper machinery for consultation/negotiation on the model recommended by the NASUWT (see Appendix 1). Teachers who are staff governors are equal in most respects to all other members of a governing body. NASUWT members should be encouraged to stand for election.

With effect from 1 September 2012, new regulations came into force in respect of school governance:

- the regulations allow governing bodies constituted on or after 1 September 2012 to have a minimum size of seven members, rather than nine as under the Constitution Regulations 2007;
- the governing body should ensure that it has the skills needed to conduct the governing body's business effectively;
- the method of appointing the LA governor has been amended;
- a new definition of co-opted governor has been introduced; and
- the role of sponsor governor has been removed.

The regulations, and DfE guidance, cover four aspects of the arrangements for the constitution of governing bodies:

- the description of the different categories of governor;
- how governing bodies are to be constituted;
- terms of office, removal and disqualification of governors; and
- instruments of government.

# Grievance

Every governing body must, by law, establish written procedures for giving staff opportunities for seeking redress of any grievances relating to their employment.

- Individual or collective grievances are best dealt with informally, as close as possible to the point of origin by a direct approach to the other employee, or discussion with the head of department or other senior person involved.<sup>3</sup> Those concerned should also have discussions with the headteacher if necessary.
- In the case of a grievance against a governing body involving no other employee, a direct approach should be made to the chair of governors.
- If the matter is not resolved by the informal procedure, a written notice of grievance should be submitted to the headteacher and any other employee(s) concerned. The headteacher should make a written report to the personnel committee of the governing body.
- If the matter is still not resolved, the teacher should have the right to put the case to an Appeals Committee, whose decision would be binding on the parties.
- The NASUWT Representative should ensure that all parties understand their roles and duties under the procedure and that the member's complaint is properly addressed.
- NASUWT Representatives should always consult the Local Association Secretary before advising members to embark on the grievance procedure.
- Employers and employees should follow the Acas Code of Practice on Discipline and Grievance, which sets out good practice. This includes the employee informing the employer in writing of the issue, attending a meeting with the employer to discuss the grievance, at which the employee has a statutory right to be accompanied by a trade union representative or another worker, and the employee should be provided with an opportunity to appeal if the grievance has not been satisfactorily resolved.

A failure to follow the Code does not, in itself, make the employer liable to legal proceedings. However, Employment Tribunals will take the Code into account. An unreasonable failure to comply with the Code by either party may result in the adjustment of any Tribunal award by up to 25 per cent.

NB. The Code does not apply to grievances raised on behalf of two or more employees.

**The law requires any trade union representative representing members in disciplinary or grievance procedures to have special accreditation. (Accreditation is gained through attendance at appropriate NASUWT training courses.)**

**For further information:**

*Acas Code of Practice on Disciplinary and Grievance Procedures (2015)* [www.acas.org.uk](http://www.acas.org.uk)  
*NASUWT Code of Practice*

<sup>3</sup> The Burgundy Book provides more detail about how collective grievances should be dealt with.

# Induction

## The purpose of induction

In England, Early Career Teachers (ECTs) are required to complete successfully a statutory period of induction in order to be employed in a maintained school or non-maintained special school in England.

Independent schools, academies and free schools can choose to deliver an induction programme to newly qualified teachers, as can further education (FE) colleges, as long as they meet certain specifications. These specifications are detailed in the statutory guidance on induction, available at: <https://www.gov.uk/government/publications/induction-for-early-career-teachers-england>.

The regulations covering statutory induction apply regardless of the setting in which ECTs are employed. They also apply regardless of the route ECTs have chosen to obtain QTS and therefore, whether they have trained at an ITT institution or through a school-based route, the same regulations apply.

Induction is an individual programme of professional development that involves being assessed against the Teachers' Standards at the end of the induction period.

The NASUWT has produced specific guidance for newly qualified teachers on the use of the Teachers' Standards within the induction period. This guidance can be found at [www.nasuwt.org.uk/NewTeachers](http://www.nasuwt.org.uk/NewTeachers) and can be used alongside the NASUWT's Induction Planner, providing new teachers with structured advice for the entire induction period.

New teachers should be aware that the difference between ITT and induction is that during induction, teachers are required to demonstrate that they can meet the standards on a sustained basis as employed teachers with QTS.

Induction, and the assessment process within the induction programme, is meant to build on and consolidate the knowledge and skills gained through ITT and to place this skills development within the classroom setting.

Induction, therefore, should not be about raising the bar for newly qualified teachers to levels of practice that are difficult to reach.

Induction is intended to provide a structured system of support, designed to ensure that they receive a high-quality, broad-based teaching experience during their first years of teaching.

Induction is a means of ensuring that all teachers teach to high standards.

Induction programmes also run for newly qualified teachers in Northern Ireland, Scotland and Wales and each nation's programmes have some differences. The NASUWT produces comprehensive guidance on the different induction programmes. The guidance is available in hard copy or online at: [www.nasuwt.org.uk/newteachers](http://www.nasuwt.org.uk/newteachers).

### For further information:

*Starting Out – a quick guide for new teachers* (NASUWT 2012)

*Induction for newly qualified teachers (England)* (DfE)

# Inspections

The NASUWT remains committed to protecting members from unnecessary bureaucracy and workload. Inspection is often cited as major cause of workload.

NASUWT Representatives have a critical role to play in ensuring that schools do not undertake excessive and unnecessary preparations for inspection and respond appropriately and proportionately to inspection outcomes.

Statutory school inspection is undertaken by Ofsted in England. The Ofsted inspection framework and handbook make clear that schools should seek to minimise the workload burdens prior to and during inspection and also clarify what inspectors will and will not expect to see in place in the settings they inspect.

NASUWT Representatives should make sure that they are familiar with these requirements and make use of the detailed guidance published by the Union on the management of inspection. This guidance is available at: [www.nasuwt.org.uk/inspection](http://www.nasuwt.org.uk/inspection). NASUWT Representatives should always seek advice and guidance from the Union if they are concerned about the way in which schools are responding to an anticipated inspection or the outcomes of an inspection.

The NASUWT will support any member with a legitimate concern about the way in which an inspection has been undertaken, including in taking forward official complaints. Advice and support from the NASUWT should be sought from the Union as soon as possible during or after an inspection, given the short timescales set for submitting formal complaints.

# Job Descriptions

- Job descriptions should be kept as short as possible and, in particular, must not contain duties that do not require a teacher's professional skills or judgement, as per the provisions and guidance within the STPCD.
- Under these provisions, teachers should not routinely be required to undertake administrative, clerical and organisational tasks which do not call for the exercise of a teacher's professional skills and judgment; invigilate external examinations and only provide cover rarely, in circumstances that are not foreseeable.
- Descriptions of existing jobs should reflect current duties and should not be used as a means of imposing a change in a teacher's role within the school.
- No job description should contain duties/responsibilities outside those set out in the STPCD. For most teachers, not all the duties listed are appropriate.
- Teachers should not write their own job description. Any proposed changes should be subject to further consultation.
- There is no obligation for a teacher to sign her/his job description.
- A suitable job description for a main scale/post-threshold teacher could read:
  - name;
  - title of post;
  - to whom the teacher is responsible;
  - a statement: 'Your duties and responsibilities are as contained in the STPCD';
  - a responsibility holder (e.g. head of department) could have a further clause specifying the nature of the responsibility.

**Governing bodies should ensure that similar posts carrying similar levels of responsibility are rewarded equally and that all staff are treated equitably (see Equal Pay, page 62).**

# Maternity, Paternity, Shared Parental Leave, Parental Leave and Adoption Leave

Teachers in maintained schools have overlapping rights to maternity leave under their contract of employment and under statutory provisions. These rights are a minimum and may be improved upon by local agreement.

Employees who are pregnant or nursing mothers have the right to a safe and healthy working environment in which they will not be required to do work that is potentially harmful to themselves or their child.

(More details are in the NASUWT Health and Safety Representatives' Handbook and Maternity advice booklet.)

## Maternity Leave – statutory rights

- **Teachers' Statutory Rights (from day one of employment):**
  - the right to paid time off for antenatal care;
  - the right to protection against dismissal, unfair selection
  - for redundancy or detrimental treatment for any reason connected with pregnancy or childbirth;
  - the right to 52 weeks' maternity leave (including two weeks' compulsory leave following the birth).
- **Teachers' Statutory Rights (after qualifying period):**
  - the right to 39 weeks' paid maternity leave after 26 weeks' continuous employment with the same employer by the 15th week before the expected week of childbirth (six weeks at 90% pay and 33 weeks at statutory maternity pay (SMP)). The latter is paid in addition to occupational half pay if the periods overlap);
  - the right to 13 weeks' unpaid additional leave following the 39 weeks' paid leave, with a right to return to work at the end of that period;
  - two weeks' statutory paternity leave and pay at statutory paternity pay (SPP) per week (there may be a local agreement on paternity leave on full pay);
  - fathers or the partner of a mother have the right to Additional Paternity Leave. Eligible employees may take up to 26 weeks' Additional Paternity Leave within the first year of the child's life or placement for adoption, provided that the person taking maternity leave has returned to work before using their full leave entitlement of 52 weeks. The statutory provisions allow the 39 weeks' entitlement to statutory pay to be shared between partners. Therefore, SPP will be paid once the mother has returned to work;
  - parental leave is an additional right, and can be taken immediately following maternity, adoption or paternity leave if you have one year's continuous service by the date on which you intend to take the leave. Thirteen weeks' unpaid leave can be taken up to the child's 5th birthday or 18th birthday if the child is disabled. If the child qualifies for disability living allowance, the parent is entitled to 18 weeks' unpaid parental leave;

- rights similar to maternity leave and pay are now available to one adoptive parent. The other adoptive parent can take paternity leave.
- **Teachers' Contractual Rights under the Burgundy Book:**
  - the right to paid occupational maternity leave for 18 weeks after one year of continuous service, assessed at the 11th week before the expected week of childbirth (four weeks' full pay, two weeks' 90% pay and 12 weeks' half pay) plus the 21 weeks' SMP and 13 weeks' unpaid leave;
  - the postnatal provisions of the occupational maternity scheme can be extended to an adoptive parent.

**Pregnant workers must comply with a variety of requirements (mainly concerned with notification to employers) at various stages of the pregnancy and maternity leave in order to qualify for some benefits and protections. There is a condition in regard to the payment of the 12 weeks' half-pay element in that teachers must return to work for at least 13 weeks following their maternity (full or part time), otherwise they may be asked to repay the 12 weeks' half-pay element back.**

**Members who become pregnant should be advised to contact their Regional Centre for advice as soon as possible.**

## Maternity Leave – contractual rights under the Burgundy Book

### Teachers' Contractual Rights under the Burgundy Book:

All teachers working in LA-maintained schools are employed under the Burgundy Book. Agreements negotiated by the NASUWT mean that the majority of academy schools and MATs also adhere to the provisions set out in the Burgundy Book.

The additional maternity benefits contained within the Burgundy Book include:

- the right to paid occupational maternity leave for 18 weeks after one year of continuous service, assessed at the 11th week before the expected week of childbirth (four weeks' full pay, two weeks' 90% pay and 12 weeks' half pay) plus the 21 weeks' SMP and 13 weeks' unpaid leave;
- the postnatal provisions of the occupational maternity scheme can be extended to an adoptive parent;
- the right to return to exactly the same job if taking additional maternity leave (AML).

Pregnant workers must comply with a variety of requirements (mainly concerned with notification to employers) at various stages of the pregnancy and maternity leave in order to qualify for some benefits and protections. There is a condition in regard to the payment of the 12 weeks' half-pay element in that teachers must return to work for at least 13 weeks following their maternity (full or part time), otherwise they may be asked to repay the 12 weeks' half-pay element back.

Members who become pregnant should be advised to contact their Regional Centre for advice as soon as possible.

The NASUWT has produced advice and guidance which can be found at: [www.nasuwat.org.uk/maternityleave](http://www.nasuwat.org.uk/maternityleave).

## Paternity Leave

### Teachers' Statutory Rights (after qualifying period):

- up to two consecutive weeks' paternity leave (to be taken within 56 days of the birth of the child) after 26 weeks' continuous employment with the same employer by the 15th week before the expected week of childbirth;
- up to two weeks' SPP per week (there may be a local agreement on paternity leave on full pay);
- the right to unpaid time off work to attend up to two antenatal appointments (not exceeding 6.5 hours);
- the right to protection against dismissal, unfair selection for redundancy or detrimental treatment for any reason connected with paternity leave.

This is only available to the biological father of the child or the mother's husband or partner, including same-sex relationships, or the intended parent if having a baby through a surrogacy arrangement.

The NASUWT has produced advice and guidance which can be found at: [www.nasuwat.org.uk/paternityleave](http://www.nasuwat.org.uk/paternityleave).

## Adoption Leave (including surrogacy)

### Teachers' Statutory Rights (from day one of employment):

- the right to protection against dismissal, unfair selection for redundancy or detrimental treatment for any reason connected with adoption leave or surrogacy;
- the right to 52 weeks' Adoption Leave;
- the right to paid time off work to attend five adoption appointments once matched with a child;
- the right to unpaid time off work to attend two adoption appointments for the spouse or partner.

For surrogacy, there is a 'statutory declaration' which your employer may request, confirming your application for a parental order. If this is required, it must be signed in the presence of a legal professional.

If 'fostering to adopt', then you are also eligible for ordinary adoption leave and pay from when the child comes to live with you. In these circumstances, you will not be entitled to adoption leave when you are matched for adoption with that same child.

### Teachers' Statutory Rights (after qualifying period):

- the right to up to 39 weeks' paid adoption leave after 26 weeks' continuous service with the same employer by the week they were matched with a child (six weeks at 90% pay and 33 weeks at Statutory Adoption Pay);
- the right to 13 weeks' unpaid adoption leave following the 39 weeks' paid leave, with a right to return to work at the end of that period, if you meet the eligibility criteria;

If the child is adopted from overseas, then there are additional criteria required, including:

- the 'official notification' that you are allowed to adopt, as well as the estimated date when the child will arrive in the UK;

- the actual date the child arrives in the UK;
- how much leave you want and your start date.

The other adoptive parent can take paternity leave.

During adoption leave, there is the option of working up to ten 'Keeping in Touch' days. These are optional and need to be agreed by both parties. Many teachers benefit from these days. They should be agreed and those who use them should expect to be paid a day's salary.

The NASUWT has produced advice and guidance which can be found at: [www.nasuwt.org.uk/adoptionleave](http://www.nasuwt.org.uk/adoptionleave).

## Shared Parental Leave

Shared parental leave provides the option to share with up to 50 of the 52 weeks of maternity leave/adoption leave to which the mother/partner is entitled, provided the qualifying criteria are met. This provides the flexibility to submit up to three separate notices for leave during the child's first year.

Those who are eligible for shared parental leave should be eligible for shared parental pay.

During shared parental leave, each parent is able to work up to 20 days. These are called 'Shared Parental Leave in Touch' days. These are in addition to the ten Keeping in Touch days available during maternity or adoption leave.

These are optional and need to be agreed by both parties. Many teachers benefit from these days. They should be agreed and those who use them should expect to be paid a day's salary.

The NASUWT has produced advice and guidance which can be found at: [www.nasuwt.org.uk/sharedparentalleave](http://www.nasuwt.org.uk/sharedparentalleave).

## Parental Leave

Parental leave is an additional right that provides the ability to take time off work to look after a child's welfare, including spending more time with them.

### Teachers' Statutory Rights (after qualifying period):

- the right to 18 weeks' unpaid leave for each child and adopted child up until their 18th birthday for those have a year or more continuous service;
- the right to protection against dismissal, unfair selection for redundancy or detrimental treatment for any reason connected with parental leave.

This is only available to those who are named on the birth certificate/adoption certificate or expect to have responsibility for the child's upbringing (parental responsibility).

The leave can be taken once a child is born or placed for adoption, and is limited to a maximum of four weeks per child per year which can only be taken as whole weeks, unless the child is disabled (when shorter blocks are permissible).

A 'week' is based on the length of time worked over seven days (e.g. if someone normally works two days a week, then one 'week' of parental leave equals two days).

The employer can postpone a request for up to six months if they have a 'significant reason', unless the parental leave immediately follows birth or adoption.

The NASUWT has produced advice and guidance which can be found at: [www.nasuwt.org.uk/parentalleave](http://www.nasuwt.org.uk/parentalleave).

# Medical Matters

Teachers' entitlement to sick pay and sick leave are covered elsewhere in this handbook. There are, however, a number of other medical queries that members may have and the following may be of help in answering them. In a maintained school:

- absence owing to injury sustained or disease contracted in the course of a teacher's duties shall not be reckoned against the teacher's entitlement to sick leave;
- a teacher absent because of the contraction of pulmonary tuberculosis is entitled to 12 months' full pay and a further period of full or half pay at the discretion of the employer;
- a teacher suspended from duty, either because of an infectious disease in the teacher's home or because of an infectious disease in the workplace that could be injurious to the teacher's health, is entitled to full pay during the course of the absence;
- where there is evidence that a teacher's medical condition may place pupils or the teacher at risk, the teacher may be suspended from duty;
- sick pay will not be paid to teachers sustaining injury during the course of playing sport as a profession.

**Teachers working in academies, free schools and independent schools will need to refer to the relevant policies, procedures and contractual entitlements in operation at their school.**

**Teachers retiring prematurely because of ill health are subject to the ill-health retirement provisions of the Teachers' Pension Scheme (TPS).**

# Meetings

NASUWT Representatives often complain that many of the school-directed meetings that members are asked to attend are a waste of time. The STPCD recognises that meetings can be detrimental to a teacher's work/life balance.

Representatives should attempt to ensure that:

- all after-school meetings appear on the year's calendar of events planned before the commencement of each academic year, as required by the STPCD, and that no new meetings are called, except in a genuine emergency;
- class teachers are not called upon to attend more than one management-organised meeting a week, that all meetings are justifiable and that where there is insufficient business, meetings are cancelled;
- no after-school meeting takes place in a week during which there is a parent consultation meeting planned;
- every after-school meeting has a published starting and finishing time (no longer than one hour) and that these are adhered to;
- all meetings are counted against the 1,265 hours of directed time within 195 days;
- all meetings have a published agenda, circulated in sufficient time to enable teachers to participate effectively in the business;
- meetings are confined to proper business. For example, no staff or department meeting should be engaged in determining teachers' conditions of service, including matters such as redundancy;
- for individual teachers, a reasonable balance is struck between the requirement for them to attend meetings and their other professional and domestic commitments.

Particular attention should be paid to the STPCD provisions and guidance relating to part-time teachers in this respect. Part-time teachers should not have a greater proportion of their directed time allocated outside of their normal sessions than full-time teachers.

NASUWT Representatives should be aware that these conditions of service provisions are now subject to national action instructions, and reference should be made to those instructions before advice is given to members or before entering into any negotiations on them.

# Pay

The NASUWT believes that the teachers' pay framework is not fit for purpose and does not reward the teaching profession for carrying out one of the most vital roles in society.

Teachers' pay has fallen in real terms by over 20% since 2010, with the pay of experienced teachers falling the most. In addition, there have been successive pay freezes and pay caps, and even those pay awards which have been given by the Government have been made optional for schools.

The DfE's own data analysis of the current teachers' pay framework confirms that the performance-related pay system withholds pay progression from teachers and is discriminatory. The rate of movement to and up the upper pay range has fallen to the lowest level ever recorded.

The NASUWT Annual Conference has set the following campaigning aims for the Union:

- a 12% pay award for all teachers in 2022/23, followed by a 10% pay award in 2023/24;
- the replacement of performance-related pay with automatic pay progression on all teachers' and school leaders' pay scales;
- a single mandatory six-point pay scale for classroom teachers, with teachers being assimilated to this after the 12% pay award is applied.

The NASUWT will continue to campaign to achieve reform to the teachers' pay framework. Until then, the Union asks all Workplace Representatives to ensure that:

- their school adopts the National Advisory Pay Points in the STPCD, which are the pay scales in the NASUWT and other unions' joint guidance: <https://www.nasuwt.org.uk/advice/pay-pensions/pay-award/england-pay-award.html>;
- pay progression for eligible teachers is the norm in their school. The NASUWT's pay and performance management resources provide additional information about this: <https://www.nasuwt.org.uk/advice/performance-management/performance-management-a-practical-guide-england.html>.

NASUWT Representatives should encourage members to actively engage in the Union's Better Deal for Teachers campaign for a 12% pay award, reduction in teacher workload and meaningful steps to improve teacher wellbeing.

# Pensions

All full- and part-time teachers in state-funded schools are automatically enrolled in the England and Wales TPS. Independent schools and private function providers can decide whether or not to participate in the TPS and many of them do so. Some supply teachers may also have access to the TPS when employed directly through a local authority pooled supply arrangement.

School representatives in the independent school sector can find out about teachers' pension provision from their own school. If an independent school is not in the TPS, it must enrol its teachers in an occupational pension scheme which meets minimum auto-enrolment standards: <https://www.moneyhelper.org.uk/en/pensions-and-retirement/auto-enrolment/automatic-enrolment-an-introduction>.

As a general rule, school representatives must not provide any advice on pensions matters, **and should direct all members to their pension scheme administrator or advise members to take regulated financial advice if they have any questions about their pension. School representatives are not indemnified** by the NASUWT for the provision of pensions advice.

The TPS administrator is Teachers' Pensions and the best way for members to contact Teachers' Pensions is via the My Pension Online function on the Teachers' Pensions website: <https://www.teacherspensions.co.uk/members/member-hub.aspx>. Members should be encouraged to set up a My Pension Online account, which will lead to them receiving individual information about their pension from Teachers' Pensions. If members wish to discuss the information which they receive from Teachers' Pensions, school representatives should advise them to do this with Teachers' Pensions direct or to take regulated financial advice.

If a member believes that they have been a victim of maladministration of their teachers' pension, whether this is the TPS or another occupational pension, they should contact [advice@mail.nasuwt.org.uk](mailto:advice@mail.nasuwt.org.uk) for assistance. The NASUWT does not provide assistance in respect of state pension or taxation matters.

One of the NASUWT's most important campaigns is for all teachers, irrespective of the setting in which they work, to be entitled to be members of the TPS, which is a defined benefits (DB) pension scheme, with a certainty over income in retirement. This includes employment agency teachers and members in independent schools.

The NASUWT has successfully taken industrial action in a number of independent schools in the last two years against schools leaving the TPS and, if an independent school proposes to leave the TPS, the NASUWT National Executive Member should be made aware of this. The NASUWT would wish to develop a collective response.

The NASUWT works with Teachers' Pensions over its communications strategy, to ensure that its communications with teachers are effective. The Teachers' Pensions website provides information about TPS developments, such as the implementation of the Government's remedy for unlawful discrimination in TPS transitional protections (the McCloud remedy), and members should search the Teachers' Pensions website for information about their pension, contacting Teachers' Pensions direct if they have any queries about this.

The National Executive's Salaries, Pensions and Conditions of Service Committee oversees the NASUWT's pensions activity and, if school representatives have any views about this, they should contact their Local Association Secretary and National Executive Member.

# Performance Management

Prior to September 2012, performance management was a process to support the development of all staff to improve teaching and raise standards. All schools in England and Wales were required to have a performance management policy in place that was fully compliant with relevant government regulations: the Education (School Teacher Performance Management) (England) Regulations 2006.

From 1 September 2012, these regulations were replaced by the Education (School Teachers' Appraisal) (England) Regulations 2012. These regulations, which are highly permissive in their nature, have the effect of removing many of the regulatory safeguards for teachers from the performance management/appraisal process. In addition, in Wales, the 2002 appraisal regulations have been replaced by the 2011 regulations.

The NASUWT has produced advice and guidance materials on acceptable approaches to performance management and appraisal. These materials include a lesson observation protocol, a performance management policy checklist and a practical guide for members on navigating the performance management process successfully. These materials are available at: [www.nasuwt.org.uk/performance-management](http://www.nasuwt.org.uk/performance-management).

If NASUWT Representatives are concerned that their schools' performance management/appraisal policies and procedures do not reflect the NASUWT's expectations, they should notify their NASUWT local or negotiating secretary and ensure that any changes comply with the checklist and observation protocol.

## For further information:

NASUWT Publications:

- *Appraisal (Performance Management): A Practical Guide for Appraisers and Appraisees*
- *NASUWT Model Performance Management Policy with Commentary for NASUWT Representatives* (includes an observation protocol)
- *Performance Management Checklist* (Jointly with the NUT)
- *Performance Management Observation Protocol* (Jointly with the NUT)

# Recognition

The Trade Union and Labour Relations (Consolidation) Act 1992, which was amended by the Employment Relations Act 1999 and 2004, gave powers to trade unions to force reluctant employers to grant them recognition for purposes of collective bargaining where there are more than 20 workers.

This legislation has been superseded by measures contained in the Employment Rights Act 2005 (ERA), which removed the previous requirement for unions to have at least 40% of the workforce in the proposed bargaining unit. Trade unions will now only require a simple majority of those voting to win.

In order to secure statutory recognition through application to the Central Arbitration Committee (CAC), trade unions are now only required to demonstrate in an application that they have 10% of the proposed bargaining unit in order for it to be accepted. The previous requirement for unions to demonstrate on application that they are likely to win the ballot has been removed.

NASUWT is a recognised union in all LAs, voluntary-aided and foundation schools. The Union is also recognised in the former sixth-form college sector, some FE colleges (including the FE sector in Wales), the vast majority of academies, free schools and independent schools, and other bodies that employ teachers (e.g. Ministry of Defence). Where NASUWT is not currently recognised, the laws might be of assistance, although, because the legislation is complex, NASUWT Representatives should always consult their Regional Organiser or Professional Assistant before taking any action. Regional Organisers and Professional Assistants work in Regional Centres throughout the country.

Recognition is important because recognised unions have the following rights (amongst others):

- the right to time off with pay for their representatives undergoing training;
- the right to time off with pay for their representatives carrying out trade union duties;
- the right for their representatives not to be discriminated against for trade union membership and carrying out trade union duties or activities;
- the right to the disclosure of information by the employer for the purposes of collective bargaining;
- rights relating to information and consultation in connection with the TUPE;
- the right to be consulted in respect of collective redundancies;
- the right to secure appropriate facilities for their representatives.

# Redundancy

Broadly speaking, there are three main redundancy situations:

- closure of the business as a whole;
- closure of the particular workplace where the employee was employed;
- reduction in the size of the workforce.

If there is not a genuine redundancy situation, the dismissal may be unfair.

The sacking of teachers on the alleged grounds of redundancy whilst class sizes are rising is not to be tolerated and will be resisted by the NASUWT wherever possible. The NASUWT Representative has an important role to play in preventing this situation from arising in the first place. The Representative should:

- monitor the school budget (section 251/budget outturn statement) carefully. The Representative is entitled to receive budget statements and should request them from the school headteacher or LA;
- ensure, with the assistance of the Local Association Secretary, that the school has established a redundancy procedure in line with NASUWT policy before a redundancy situation has arisen; and
- at the first hint of a potential redundancy situation, inform the Local Association Secretary, who would become closely involved should any member prove to be at risk.

Employers have certain duties in a redundancy situation:

- To inform and consult with potentially affected employees and the trade union(s), in good time, with a view to agreeing a redundancy procedure and in order to investigate ways of avoiding redundancy. Failure to consult may render the dismissal unfair.
- To ensure that any selection criteria are fair, objective and non-discriminatory and are applied fairly. Unfair selection may render the dismissal unfair. (It should be noted that 'last in, first out' (LIFO) as the sole criterion for selecting redundancies is potentially indirectly discriminatory on the grounds of age. LIFO should only be used as one of a number of selection criteria or as a tiebreaker. NASUWT Representatives should resist employers' attempts to change redundancy policies to remove LIFO altogether.)
- If the procedure goes ahead, employers must make every effort to find the teacher(s) at risk an alternative post, or this could render the dismissal unfair. (The employer should agree to withdraw the redundancy notice at any time that a change in circumstances permits, no matter what stage the process has reached.)
- Redundancy is a form of dismissal and employers should, as a minimum:
  - inform the employee in writing of the circumstances that may lead to their dismissal, including the reasons for the redundancy and why they have been selected;
  - invite the employee to a meeting to discuss the issue and inform the employee of the decision and of their right of appeal;
  - if the employee wishes to appeal, hold an appeal meeting. The employee should be informed of the final decision.

Members should be able to take a trade union representative or friend to any meeting which may result in their dismissal by reason of redundancy and any appeal process.

There are special rules under the Trade Union and Labour Relations (Consolidation) Act 1992 s188-192 whereby an employer must inform and consult with the appropriate trade union(s) or employee representatives, where the employer is proposing to dismiss 20 or more employees at one establishment within a period of 90 days. Failure to inform and consult may give rise to a claim for a 'protective award' to the Employment Tribunal by the trade union, on behalf of the employees. Alternatively, if the employer fails to arrange for the election of an employee representative for the purposes of consultation or where a trade union is not recognised by the employer, an individual employee can bring a claim.

Furthermore, the Burgundy Book contains enhanced provisions requiring schools to consult with trade unions over any potential redundancy situation.

Expert advice should be sought from the NASUWT Regional or National Centre on potential redress to the Employment Tribunal in redundancy cases.

## Redundancy payments

An employee dismissed on the grounds of redundancy is entitled to a statutory redundancy payment, if they have the necessary two years' continuous employment to qualify. Broadly speaking, this calculation is based on a week's pay (capped at the statutory maximum) and length of service. Employees may have a contractual right to an enhanced redundancy payment. NASUWT Representatives should always check the contract of employment to confirm this. It is at the discretion of the employer whether or not to offer an enhanced redundancy scheme, beyond what is provided for by statute.

An employee may lose their statutory redundancy pay if they unreasonably refuse an offer of suitable alternative employment. For teachers, if an individual receives an offer of suitable comparable employment with any employer listed in the Continuity of Employment in Local Government etc Modification Order 1999 to start immediately within four weeks of the end of their previous employment, they will be ineligible for a redundancy payment. All LAs in England, Wales and Scotland are covered, including VA and foundation schools, as well as academies.

### **For further information:**

*Conditions of Service for School Teachers in England and Wales* (Burgundy Book)

## Education Support Partnership

Education Support Partnership (an amalgamation of Teacher Support Network, Recourse and Worklife Support) is the independent charity dedicated to the wellbeing of teachers, headteachers and lecturers.

Education Support Partnership understands the unique pressures that working in education put on people and provides independent, confidential support, to help people deal with stress and anxiety, bullying, career and money worries, and a range of other issues. It also provides training and professional services to help leaders engage, energise and look after their staff.

Education Support Partnership provides the following free services:

- guidance on a diverse range of issues, including stress management, workplace bullying and work/life balance;

- information, resources and signposting to other relevant organisations;
- money advice – providing individually tailored strategies to cope with financial strain;
- financial assistance in the form of emergency grants;
- confidential, solution-focused counselling on personal and professional issues to enable teachers to find their solutions to problems whether in school or out.

All of these services can be accessed by visiting **[www.educationsupportpartnership.org.uk](http://www.educationsupportpartnership.org.uk)** or by calling the Education Support Partnership helpline on 08000 562 561. The helpline is free and available to all teachers, lecturers and staff in education (primary, secondary, further or higher education) in England, Wales and Scotland. It is available 24/7, 365 days a year. In addition, Education Support Partnership offers online-chat support, a free 24/7 service. The teacher is joined online, in a pop-up chat window, by one of the same counsellors who answers the phone calls.

Registered Charity No. 1161436.

Remember that members may also be able to access financial assistance via the NASUWT Benevolent Fund.

# Sick Pay and Sick Leave

National agreements on the teachers' sick pay scheme are contained in the Burgundy Book of teachers' conditions of service, summed up below for quick reference. **The NASUWT Representative should keep a copy of any local or school arrangements that may enhance these.** These will apply in all maintained schools, but may not apply in academies and free schools or independent schools. Representatives in academies, free schools and independent schools should check the contractual provisions that apply.

## The minimum sick pay entitlement is:

- in the **first year of service** – full pay for 25 working days and, after four calendar months' service, half pay for 50 working days;
- in the **second year of service** – full pay for 50 working days and half pay for 50 working days;
- in the **third year of service** – full pay for 75 working days and half pay for 75 working days;
- in the **fourth year and successive years of service** – full pay for 100 working days and half pay for 100 working days.

**(The sick leave year is deemed to be from 1 April to 31 March.)**

## A medical statement is required as follows:

- **on the fourth day of absence**, a personal note to 'self-certify' the absence;
- **on the eighth day**, a medical statement (fit note);
- if absence is prolonged, a medical statement **at the end of each month** and on return to duty (unless the date of return has been specified on a previous medical statement);
- **if admitted to hospital**, a medical statement on entry and discharge.

If absence is prolonged or frequent, the employer may call for an examination by an approved medical practitioner. See Medical Matters (page 76) for more information about sick leave and sick pay.

Teachers working in academies, free schools and independent schools will need to refer to the relevant policies, procedures and contractual entitlements in operation at their school.

# Stress

Stress is the reaction of our body and mind when the demands made of us become too much for our ability to manage. Stress is an area of concern for NASUWT Representatives as well as Health and Safety Representatives.

Signs of stress in colleagues may be:

- behavioural changes such as irritability, aggression, unwillingness to accept advice or co-operate with others, increased use of cigarettes, coffee, alcohol and other drugs, overworking and difficulty in maintaining concentration.

Particular pressures on teachers include:

- excessive workload;
- pupil behaviour;
- a host of frustrating and ineffective meetings;
- Ofsted inspections;
- major changes in working practices;
- threat of violence;
- management bullying;
- threat of sexual or racial harassment;
- lack of career progression;
- large class sizes.

The NASUWT Representative should treat the issue as a collective problem and:

- work with the NASUWT Health and Safety Representative;
- hold a meeting and organise a short survey, such as the NASUWT Wellbeing at Work Survey, further details of which are available on the NASUWT website, to encourage members to discuss the issue;
- check sickness, absence and accident statistics to see if they are related to stress;
- consider suggesting the implementation of a general stress management programme. Argue that stress impairs the performance of the school by creating increased and unpredictable sickness absence, high staff turnover, behavioural problems, poor working relationships and less teamwork. It tends to have a domino effect if left unchecked: colleagues may themselves be put under greater pressure. Stress-related absence costs money;
- if an individual member has problems, the underlying causes must be identified and addressed. Also suggest potential assistance such as programmes of anxiety management, counselling, relaxation and/or assertiveness training.

Although many employers have put in place interventions to address work-related stress, many of these are secondary or tertiary interventions, such as mental health first aid provision. Although these are good, it is vitally important that the causes of work-related stress are identified and addressed, not just the symptoms.

Where a member has suffered extended absence as a result of work-related stress, the NASUWT Representative should take advice from the Regional Centre.

# Violent and Disruptive Behaviour

Advice to NASUWT Representatives for the protection of pupils and staff.

1. Take advice from your Local Association Secretary prior to acting on this issue.
2. Seek to negotiate with your headteacher to:
  - review, republish and enforce the school behaviour management policy;
  - formulate a code of conduct and communicate to students and parents an unequivocal commitment to exclude pupils who fail to adhere to it;
  - establish a policy of zero tolerance of verbal abuse enforced through exclusion;
  - resist attempts to use parental complaints to undermine teachers;
  - train all staff (including SMT) in techniques for the avoidance and management of violent and disruptive pupil behaviour;
  - ensure a risk assessment is carried out on any potentially violent pupils, with the results shared with all staff;
  - place a trained SMT member on standby at all times for intervention in disruptive incidents;
  - have SMT members available to support teaching staff experiencing pupil behaviour problems;
  - seek to secure orders banning identified parents and intruders under Section 547 of the Education Act 1996.
3. Advise members to:
  - ensure that the employer reports all incidents of actual or threatened assault and/or criminal damage to the police. If the employer refuses to do this, then the member should report it, preferably within 48 hours. The NASUWT Local Association Secretary should be informed;
  - report all actual or threatened assaults and confrontational incidents causing stress and/or injury through the workplace accident reporting procedure.
4. In the event of management failure to establish a safe working environment, the NASUWT Representative should:
  - make a formal request for the risk assessment of the conduct of pupils who repeat violent and disruptive behaviour;
  - put management on written notice of exposure to action in negligence where there is a failure to take appropriate action over pupils whose recorded behaviour constitutes a 'foreseeable risk';
  - take advice from the National Executive Member regarding the possibility of balloting for industrial action on refusal to teach pupils with an established record of violent and disruptive behaviour.

# Working Time

The Working Time Regulations 1998, for reasons of health and safety, establish for most workers, including all teachers, a maximum working week of 48 hours. All teachers working in LA-maintained schools have their contractual hours laid down in the STPCD. Agreements negotiated by the NASUWT mean that the majority of academy schools and MATs also adhere to the provisions set out in the STPCD in regard to contractual hours.

Teachers working in academies, free schools and independent schools that do not adhere to the STPCD will need to refer to the relevant policies, procedures and contractual entitlements in operation at their school.

The STPCD stipulates that headteachers, deputy headteachers, assistant headteachers, leading practitioners and teachers on the leadership spine have no contractual limits on their working time. In addition, the STPCD requires that:

- all other teachers must be available for work for 195 days each year, of which 190 shall be days on which they may be required to teach children;
- teachers are required to be available for 1,265 hours each year, during which they may be directed to perform duties by the headteacher. Such directions must be 'reasonable' and time should be allocated for planning, preparation and assessment (PPA), as well as teaching and meetings.

NASUWT Representatives should insist that a 'time budget'/calendar, laying down management expectations of staff, should be drawn up before the commencement of each academic year in consultation with the trade union representatives as required in the STPCD:

- a teacher is required to work 'such reasonable additional hours as may be necessary to enable the effective discharge of the teachers' professional duties'. The time and place are to be determined by the teacher;
- in allocating duties, the headteacher must take account of a teacher's need for a reasonable work/life balance.

Particular attention should be paid to the STPCD provisions and guidance relating to part-time teachers in this respect. Part-time teachers should not have a greater proportion of their directed time allocated outside of their normal sessions than full-time teachers.

Although there are no regulations that require schools to have a particular length of day, from September 2023 there will be an expectation that the school week is 32.5 hours long. However, this relates to the total amount of time a pupil spends in school, and includes break and lunchtimes. There are no requirements for a particular amount of time to be allocated to teaching within the school day.

Any proposal to change the length of the school day has conditions of service implications and must be the subject of negotiation with the representatives of recognised unions within the school. Such decisions should never be made at staff meetings. The NASUWT is opposed to the lengthening of the school day and NASUWT Representatives should inform their Local Association Secretary immediately if any proposal to do so is made.

## For further information:

*Examples of administrative tasks that should not be routinely done by teachers: collecting money; chasing absences; bulk photocopying; copy typing; producing standard letters; class lists; record keeping and filing; displays; attendance analysis; processing exam results; collating reports; admin of work experience; admin of exams; admin of cover; ICT troubleshooting; ICT commissioning; ordering supplies; stocktaking; cataloguing, issuing and maintaining supplies or equipment; minuting meetings; co-ordinating or submitting bids; seeking/giving personnel advice; managing pupil data; inputting pupil data (after an initial entry).*

# Work/Life Balance

**All teachers and headteachers are entitled to enjoy a satisfactory balance between the demands of their professional duties and their personal interests outside work.**

**This right is enshrined in law for teachers employed under the provisions of the STPCD.**

- All employers have a general duty under the Health and Safety at Work etc. Act 1974 to ensure the health, safety and welfare of employees, and the Working Time Regulations 1998 set limits on working time.
- Work/life balance is specifically provided for in the conditions of service for all teachers and headteachers in maintained schools as set out in the STPCD.
- Following the National Agreement on reducing workload, the STPCD requires that:
  - additional hours over and above the annual 1,265 must be reasonable;
  - for those teachers not covered by the 1,265 limit on directed time, overall hours must be reasonable;
  - headteachers must have regard to the desirability of all teachers being able to achieve a satisfactory work/life balance;
  - governing bodies are obliged to ensure that headteachers can achieve a reasonable work/life balance.

As a direct result of the NASUWT's campaigning, these provisions are not simply recommendations; they are contractual entitlements.

NASUWT Representatives should work with Health and Safety Representatives to ensure that, as recommended in the STPCD, they are consulted in order to develop agreed strategies for achieving a reasonable work/life balance.

The STPCD states that in implementing contractual changes, there must be no detriment to existing working practices.

Strategies include the following actions which should be in place in every school:

- an agreed directed time budget and calendar of meetings for the year;
- no 'pre-' Ofsted inspections and the related redrafting of policy statements, etc.;
- work for real Ofsted inspections is limited to that required in the Ofsted framework and handbook;
- a maximum of one meeting per week for teachers not on the leadership spine, and for others an agreed reasonable number;
- meetings are a maximum of one hour, with published agendas, and are effectively chaired;
- parental consultation meetings are a maximum of one per year group, taught and counted against the weekly total of meetings;
- open evenings are voluntary but, if attended, count against directed time and the weekly total of meetings;

- planning, marking and assessment practices are simple and streamlined and reflect the NASUWT's expectations (see Curriculum section above);
- pupil reports are made once per year. Unless computer generated, reports have a maximum length of 400 words with a 40-word maximum for individual subjects;
- documents are reviewed to consider their value, length and method of production.

Teachers working in academies, free schools and independent schools will need to refer to the relevant policies, procedures and contractual entitlements in operation at their school.

# Appendix 1

**For MATs, please see Model Agreement at Appendix 2**

## **Model Agreement: Arrangements for Joint Consultation**

### **1. Statement of Intent**

This agreement reflects the commitment of the governing body of the school and the recognised teacher trade unions to the concept of solving problems by joint consultation, both sides accepting that a constructive joint consultative relationship is best achieved by a procedural framework recognised and used as the only process through which joint consultation on matters within the scope of this agreement (see section 2) shall take place unless otherwise agreed by the parties.

### **2. Scope of the Agreement**

- 2.1 In the context of this agreement, consultation is used as a generic term to cover consultation, discussion and negotiation.
- 2.2 Within the context of this agreement, either side may use the procedure on matters that affect:
- a. terms and conditions of employment, or the physical conditions in which teachers are required to work;
  - b. engagement or non-engagement, or termination or suspension of employment, of one or more teachers;
  - c. allocation of work or the duties of employment as between teachers or
  - d. groups of teachers;
  - e. matters of discipline;
  - f. trade union membership or non-membership;
  - g. facilities for trade union officials; as long as the matters involved are within the competence of the governing body of \_\_\_\_\_ School.
- 2.3 It is agreed that any proposals relating to matters identified under 2.2 will be the subject of joint consultation. It is agreed that this includes the following:
- a. pay, hours of work, holidays and holiday pay, sick pay arrangements, pensions, vocational training, equal opportunities, notice periods, the working environment, utilisation of machinery and other equipment;
  - b. recruitment and selection policies, human resource planning, redundancy and dismissal arrangements;
  - c. job grading, job evaluation, job descriptions, flexible working practices;
  - d. disciplinary procedures, arrangements for representing trade union members at internal interviews, arrangements for appearing on behalf of trade union members, or as witnesses, before agreed outside appeal bodies or industrial tribunals;

- e. representational arrangements, any union involvement in the induction of new workers;
  - f. collective bargaining, grievance procedures, joint consultation, communicating with members, communicating with other union officials also concerned with collective bargaining with the employer.
- 2.4 It is understood that this agreement is not intended to deal with matters covered by any jointly agreed procedures (e.g. agreed discipline and grievance procedures).
- 2.5 Whilst this agreement is not intended as a collective disputes procedure, it will be used under certain circumstances as a means of conciliation (see section 6 overleaf).
- 2.6 Whilst this agreement is a formal undertaking between the parties, it is understood that the teacher unions may act collectively or singly in operating the agreement.

### **3. Informal and Formal Joint Consultation**

Whilst it is difficult to draw a clear definition between informal and formal joint consultation, or indeed to determine when informal joint consultation becomes formal joint consultation, it is accepted by the parties that there are essential differences. Accordingly, the arrangements for joint consultation make some differentiation in procedural requirements on representatives of the parties.

#### *3.1 Informal Joint Consultation*

Either the management side or the trade union side representatives may wish to hold informal consultation from time to time. This might be quite commonplace and either side should make all reasonable efforts to agree to an early meeting. In every case, the meeting should occur as soon as possible.

#### *3.2 Formal Joint Consultation*

Formal joint consultation will occur on two levels. The first level will comprise the headteacher and representatives of the teacher unions. Every effort will be made to reach agreements at this level. Agreements reached at this level will be dealt with through the school's normal processes. If agreement cannot be reached at this level, the matter will be referred to the Joint Consultative Committee (JCC). A meeting of the JCC will convene within 15 days.

#### *3.3 Joint Consultative Committee*

The second level of formal joint consultation is the JCC. The JCC shall comprise three representatives of the governing body (none of whom shall be employees at the school) and one representative of each of the teacher unions. The headteacher shall be present in an advisory capacity. Reference to this level may be direct or by reference from the first level. Every effort will be made to reach agreement.

### **4. Failure to Agree**

If there is a failure to agree at the first level, the matter will be referred to the JCC. If there is a failure to agree at the JCC, both sides will accept the need for conciliation. The conciliation procedure is set forth in section 6.

### **5. Collective Dispute**

If a collective dispute is declared by the teacher unions or an individual teacher union, both sides must use the conciliation procedure outlined in section 6.

## 6. Conciliation Procedure

Following a failure to agree at the JCC, the parties may, by agreement, refer the matter to the full governing body for resolution. The governing body, with the assistance of the LA, will seek to resolve the matter and discussions may take place with the national representatives of the teacher unions.

If a failure to agree continues, the matter will be referred to the Acas, which is the body statutorily designed to deal with such matters.

## 7. Amendment to the Agreement

Amendments to this agreement may be made by the agreement of both sides.

## 8. Disputes Arising from the Agreement

Any dispute arising from the agreement or its operation will be dealt with within the terms of the procedural arrangements set down within this agreement.

## Schedule 1: Composition and Rules of the JCC

### 1. Membership

- 1.1 Each teacher union recognised by the LA and having members within the school shall have one representative on the teachers' side.
- 1.2 The management side shall consist of an agreed number (recommended: three) of members of the governing body who themselves are not employees of the school.
- 1.3 In the event of a member being unable to attend a meeting, the body represented by such members will be entitled to appoint a substitute.

### 2. Advisors

- 2.1 Each side, subject to the prior notification of the other side, may be accompanied by such other persons seen to be appropriate from time to time in an advisory capacity.
- 2.2 Advisors may speak but not vote.

### 3. Voting

Every effort will be made on the part of the JCC to reach agreement. If voting is necessary on an issue, it will only be agreed if there is a majority on each side in favour. In the case of the teachers' side, each representative shall cast that number of votes being the membership of their union in the school. In the case of the management side, each representative shall cast one vote. The Chair will not have a second or casting vote.

### 4. Agenda

All items for discussion, together with any supporting documentation, will be notified and circulated to either side an agreed minimum (recommended: ten) of working days in advance of the meeting. Additional documentation will only be considered by agreement between the parties. There will be no 'any other business' (AOB), except in an emergency situation and by agreement between the parties.

### 5. Chair

*Option 1.* Each side will chair the JCC alternately (either meeting by meeting or annually as agreed by the parties). Each side shall elect its own Chair.

*Option 2.* The management side will chair the meetings.

## 6. Secretary

The Secretary to the Committee will be the headteacher or such other person as the parties jointly agree and shall be responsible for:

- a. the distribution of the agenda and supporting papers;
- b. administrative arrangements; and
- c. preparation of minutes.

## 7. Meetings



7.1 Meetings shall be held a minimum of once per term on dates agreed by each side (recommended: a calendar of dates). Committee members will have a minimum of ten working days' notice of meetings.

7.2 Special meetings shall be called at the request of either side and shall be held within ten working days of the request. Committee members will receive a minimum of five working days' notice of the meeting.

## 8. Minutes

The minutes will be approved by the Chair of each side prior to them being forwarded to the governing body.

## Appendix 2


<h3>Model Agreement for Academies in England</h3>
<p>Trade Union Recognition and Facilities and Machinery for Consultation and Negotiation</p>




## MODEL AGREEMENT FOR ACADEMIES IN ENGLAND TRADE UNION RECOGNITION AND FACILITIES AND MACHINERY FOR CONSULTATION AND NEGOTIATION

### INTRODUCTION

In accordance with the TUPE Regulations, trade union recognition rights for recognised trade unions are automatically transferred over when a maintained school becomes an academy. This move, from direct LA control to academy status, means that there is a need to clarify the specific working arrangements between the Unions and (name of school), particularly in respect of consultation and negotiation and facility time for Union Representatives. The terms of the Agreement which follows provide that clarification.

### PARTIES, COVERAGE AND DEFINITIONS

1. The following trade unions are covered by this agreement:

- the teacher unions (ATL, NAHT, NASUWT and NUT) and the unions representing support and other professional school staff (GMB, UNISON and Unite);
- [other trade unions as may be agreed].

2. This agreement applies in respect of employees in the following categories:

- teaching staff (ATL, NAHT, NASUWT and NUT);
- support and other professional school staff (GMB, UNISON and Unite);
- [other categories of staff as may be agreed].

3. Throughout this agreement, the following definitions apply:

- “The Academy Trust” means the governing or other body responsible for the running of the Academy Trust and other persons or bodies having responsibility for the management of the Academy Trust, typically the Trustees, and its academies, typically local governing bodies and Principals;
- “The trade unions” means the recognised trade unions as listed above;
- [other definitions as appropriate].

### PRINCIPLES AND OBJECTIVES

4. The independent trade unions identified in this agreement are recognised for the purposes of collective bargaining, consultation and individual staff representation on behalf of the workforce.



5. This agreement is intended to promote and assist in the establishment of:

- jointly agreed pay and conditions of employment;
- good practice with regard to matters of employment and health and safety;
- effective communication;
- participation and involvement of staff;
- effective and prompt resolution of issues and disputes;
- equal opportunities in employment; and
- arrangements for discussion of professional issues concerning teaching and learning, including issues relating to the curriculum, behaviour policy etc.

6. This agreement is intended to be implemented alongside the obligations that the Academy Trust must meet in accordance with the TUPE regulations.

7. The trade unions recognise that it is the Academy Trust's responsibility to plan, organise and manage the delivery of education to the students at the Academy Trust.

8. In turn, the Academy Trust recognises the trade unions' right to represent and protect the interests of their members employed in the Academy Trust's academies both individually and collectively.

9. The Academy Trust believes that representative trade unions help ensure good employee relations. The Academy Trust will encourage employees to become union members, and will inform new appointees of their right to join a trade union. The Academy Trust will provide the trade unions with the names and work locations of new appointees, including Schools Direct, Teach First and student teachers.

10. The Academy Trust and the trade unions declare their commitment to maintaining good industrial relations and agree to make every effort to resolve any difficulties which may arise and to ensure that this agreement is effective.

#### **TRADE UNION REPRESENTATIVES**

11. For the purposes of this agreement, the term "trade union representatives" includes Trust/workplace representatives, health and safety representatives and learning representatives.

12. Trade union representatives will be appointed in accordance with the rules of the individual trade unions concerned. The trade unions will inform the Academy Trust in writing of the names of their appointed representatives.

13. The numbers of trade union representatives appointed shall be a matter for each union but the trade unions agree that the numbers shall be reasonable in relation to the number of members represented. The Academy Trust will not decline to recognise appointed trade union representatives.



14. Trade union members have a statutory right to be represented by an official of their trade union. Whether that official is employed by the union or locally elected is a matter for the trade union.

15. The Academy Trust undertakes that no trade union representatives will suffer any disadvantage as a result of undertaking this role on behalf of trade union members.

#### **FACILITIES FOR TRADE UNION REPRESENTATIVES AND MEMBERS**

16. The Academy Trust agrees to provide appropriate facilities to trade union representatives and members in order to enable them to discharge their union duties and undertake trade union activity and to facilitate the objectives of effective communication and consultation with employees and their representatives set out in this agreement.

17. The Academy Trust will make arrangements for the deduction and transfer of union subscriptions through payroll.

#### ***Time off with pay for trade union representatives***

18. The Academy Trust will permit trade union representatives reasonable time off with pay during their normal working hours (including release from timetabled teaching and learning support in the classroom) for the purpose of carrying out trade union duties.

19. The Academy Trust will also permit trade union representatives time off with pay within their normal timetabled working hours (including release from timetabled teaching and learning support in the classroom) where necessary, in particular to prepare for and/or attend meetings or to consult with employed officials or local representatives of their union. Trade union representatives will give as much notice as possible of the need for such time off and no reasonable request will be denied.

20. The Academy Trust will seek to ensure that all meetings convened by the Academy Trust or by the Principal and involving trade union representatives take place within their normal working hours.

21. The Academy Trust will participate in arrangements within the local authority area(s) with regard to trade union facilities time; and agrees both to contribute to pooled funding for time off with pay for trade unions' local officers and to provide time off with pay to any of its employees who undertake trade union duties in that capacity.<sup>1</sup>

<sup>1</sup> An example of these arrangements can be found in the model constitution for a Joint Consultative and Negotiation Committee, [www.tuc.org.uk/sites/default/files/JCNCModelConstitutionJuly15.pdf](http://www.tuc.org.uk/sites/default/files/JCNCModelConstitutionJuly15.pdf)



22. The Academy Trust and the trade unions are committed to ensuring that trade union representatives receive appropriate training to allow them to discharge their trade union duties. The trade unions will provide appropriate training to their representatives. The Academy Trust will permit trade union representatives reasonable time off with pay to attend relevant training courses run by their trade unions or by other appropriate bodies and no reasonable request will be denied.

#### *Other facilities for trade union representatives*

23. The Academy Trust will provide the following facilities to trade union representatives:

- reasonable accommodation to hold meetings and to interview members in a confidential manner;
- confidential access to and reasonable free use of telephone, fax and email facilities and computing and photocopying facilities;
- reasonable access to administrative and secretarial services;
- secure office/storage space;
- individual notice boards in all staff rooms;
- space on the academy intranet;
- all relevant documents, including those which provide information as to the structure and allocation of promoted posts applicable to the Academy Trust, the articles of government, the funding agreement and documents that set out the pay, conditions of service and the regulations of the Academy Trust which apply to the employees of the Academy Trust.

#### *Trade union meetings*

24. The Academy Trust will allow trade union members to hold meetings on the premises outside their normal working hours, including at lunchtimes and immediately following the end of the student day. The trade unions will give reasonable notice of such meetings to the Principal. The Academy Trust will not seek to place restrictions on the frequency or duration of such meetings or to the attendance of employed officials or local representatives of the trade union at such meetings.

25. The Academy Trust will allow trade union members to hold and attend such meetings on the premises within their normal working hours, where appropriate to the urgency or nature of the matters to be discussed. Trade union representatives will give as much notice as possible to the Principal when seeking consent for such meetings. The Academy Trust will not unreasonably withhold such consent to such meetings.



### *Time off for trade union activities*

26. In accordance with the ACAS Code of Practice the Academy Trust will allow trade union representatives and members reasonable time off during working hours for the purpose of taking part in trade union activity, including in particular representing the trade union at external meetings and conferences.<sup>2</sup> Time off for trade union representatives and members to attend annual conferences and other policy-making conferences of their trade unions as a delegate will in all cases be time off with pay.

### *Disciplinary action involving trade union representatives*

27. The Academy Trust will not take disciplinary action against a trade union representative until an employed official of that trade union has been consulted.

### **JOINT CONSULTATIVE AND NEGOTIATION COMMITTEE**

28. The Academy Trust will provide the trade unions with appropriate information on financial and organisational issues in order to allow meaningful consultation and negotiation (including information required for collective bargaining and consultation in accordance with the ACAS Code of Practice). The trade unions agree to treat information with sensitivity in cases of genuine commercial confidentiality.

29. The Academy Trust and the trade unions agree to set up a Joint Consultative and Negotiation Committee (JCNC) consisting of representatives of both sides to undertake the following functions:

- the provision and sharing of information by the trade unions and the Academy Trust;
- consultation on employment procedures and working and organisational arrangements;
- negotiation and agreement on the issues listed below for consideration by the JCNC.

30. Before implementing any changes in employment procedures and working and organisational arrangements, the Academy Trust will undertake consultation and negotiation with trade union representatives through the JCNC.

<sup>2</sup> An example of these arrangements can be found in the model constitution for a Joint Consultative and Negotiation Committee, [www.tuc.org.uk/sites/default/files/JCNCModelConstitutionJuly15.pdf](http://www.tuc.org.uk/sites/default/files/JCNCModelConstitutionJuly15.pdf)



31. The following matters shall, in particular but not exclusively, be considered by the JCNC<sup>5</sup>:

- negotiating machinery and procedures;
- terms and conditions of employment;
- staffing and pay structures;
- employment policies and procedures;
- matters of health and safety;
- operational issues affecting the deployment, security and prospects of staff;
- staff training and development;
- professional issues concerning teaching and learning, including issues relating to the curriculum, behaviour policy etc;
- equal opportunities matters.

32. In regard to these items, the following will apply:

- a) where at the point of transfer national terms and conditions apply, the Academy Trust will employ all staff on the national terms and conditions for school teachers and support staff. These terms may only be amended by mutual agreement as set out in Paragraph 39;
- b) where at the point of transfer terms and conditions apply that have been agreed with all unions, the Academy Trust will employ all staff on the agreed terms and conditions for school teachers and support staff. These terms may only be amended by mutual agreement as set out in Paragraph 39;
- c) where at the point of transfer, terms and conditions apply that have not been agreed with all unions, the Academy Trust will undertake, as part of this Agreement, to reach agreement with all unions on the terms and conditions for school teachers and support staff.

33. Within each Academy school, the Principal will schedule a termly meeting with workplace trade union representatives, and hold additional meetings as necessary, for the discussion of relevant issues with the purpose of ensuring the effective implementation of new initiatives and ensuring good ongoing relations. Each Academy school will be bound by the provisions, policies and procedures agreed by the Trust JCNC, except where protections under the TUPE Regulations apply.<sup>6</sup>

<sup>5</sup> A model constitution for a Joint Consultative and Negotiation Committee is available on the TUC website, [www.tuc.org.uk/sites/default/files/JCNCModelConstitutionJuly15.pdf](http://www.tuc.org.uk/sites/default/files/JCNCModelConstitutionJuly15.pdf)

<sup>6</sup> This optional provision is for use in academy chains to establish arrangements at both Trust-wide and individual academy level. In free-standing academies, and in smaller academy chains where trade unions do not think it necessary to have two-tier arrangements, this provision can be deleted.



34. The Academy Trust and the trade unions agree that any dispute on interpretation of this agreement or any other matter will be referred initially to the JCNC for resolution.

#### **FAILURE TO AGREE**

35. The Academy Trust and the trade unions agree that it is in the interests of all parties that consultation and negotiations are carried out expeditiously and with the aim of reaching an agreed settlement.

36. If the Academy Trust and the trade unions cannot reach an agreement, the matter may be referred to the Advisory Conciliation and Arbitration Service (ACAS) in order to seek resolution of the issue. Either party may determine that a matter is referred to ACAS for conciliation. Both parties may subsequently agree, where necessary, that a matter is referred to ACAS for arbitration.

37. Whilst these procedures are being followed the Academy Trust will honour the status quo ante.

#### **[COMMENCEMENT], REVIEW AND VARIATION**

38. [This agreement comes into effect on the following date:

- date as appropriate].

39. The provisions of this agreement may be reviewed at the request of either side or varied at any time by mutual agreement of all parties following discussion as an agenda item at a quorate meeting of the JCNC.

40. The agreement itself may be terminated at any time by mutual agreement of all parties following discussion as an agenda item at a quorate meeting of the JCNC; or through 12 months' notice of termination from the Academy Trust or from the trade unions acting jointly. In the latter circumstance, either side will be entitled to place the matter for discussion upon the agenda of a meeting of the JCNC and subsequently to refer the matter to ACAS for arbitration in order to seek resolution of the issue. Any individual trade union may withdraw from this agreement through 12 months' notice of withdrawal.

# Appendix 3

## NASUWT Representative Incident Log

<b>Date:</b>	
<b>Nature of incident:</b>	
<b>Identity of those involved:</b>	
<b>Report:</b>	
<b>Action taken:</b>	
<b>Signed:</b>	<b>Date:</b>

# NASUWT Regional Centres

**Eastern Regional Centre**

St James House  
The Anderson Centre  
Olding Road  
Bury St Edmunds  
Suffolk IP33 3TA  
E-mail: [eastern@mail.nasuwt.org.uk](mailto:eastern@mail.nasuwt.org.uk)

**East Midlands Regional Centre**

Colliers Way  
Phoenix Park  
Nottingham NG8 6AT  
E-mail: [eastmids@mail.nasuwt.org.uk](mailto:eastmids@mail.nasuwt.org.uk)

**Greater London Regional Centre**

65 St John Street  
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Tyne & Wear NE35 9PE  
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241 Leeds Road  
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**Tel: 03330 145550**  
**[www.nasuwt.org.uk](http://www.nasuwt.org.uk)**

# Key contacts

Quick reference

Contact	Name	Telephone
<b>Local Association Secretary</b>		<b>School/Office</b>
		<b>Home</b>
		<b>Mobile</b>
		<b>Fax</b>
		<b>E-mail</b>
<b>NASUWT Health and Safety Co-ordinator</b>		<b>School/Office</b>
		<b>Home</b>
		<b>Mobile</b>
		<b>Fax</b>
		<b>E-mail</b>
<b>National Executive Member</b>		<b>School/Office</b>
		<b>Home</b>
		<b>Mobile</b>
		<b>Fax</b>
		<b>E-mail</b>
<b>Regional Official</b>		<b>Office</b>
		<b>Fax</b>
		<b>E-mail</b>



# **NASUWT**

**The Teachers' Union**

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