

30 July 2020

To Directors of Education

COVID-19 – opening of schools in August 2020

Dear Colleague

On 30 July 2020, the Government announced its plans for the full opening of schools in August 2020.

This announcement was followed by the publication of the Government's advice to support employers and schools in planning for the opening.

The NASUWT understands that employers will have found the timescale for completing their plans for the August opening very challenging and is aware that a number were unable to complete them before the end of the Summer term. Many more were unable to consult with staff and unions on their plans before schools closed.

The challenging timetable set by the Government has been further compounded by the fact that the final guidance on opening in August is only now available.

The NASUWT is committed to working with employers to ensure the safe opening of schools and other educational settings.

An important starting point for the NASUWT is that teachers and other school staff have the right to the same considerations and protections in the workplace that are being applied to other workers and to the public, and to be confident that their health and welfare, as well as that of pupils, is at the heart of any planning for opening.

Our expectation is that all local authorities will ensure that all schools and settings have completed their pre-opening health and safety checks and the NASUWT has produced a pre-opening health and safety checklist which is available at: www.nasuwt.org.uk/fullreopeningScotland, which we hope you will find helpful.

The Government's guidance for employers states that: *'Nothing in this guidance affects the legal obligations of education authorities with regard to health and safety and public health. Education authorities must continue to adhere to all such duties when implementing this guidance. Under the Coronavirus Act 2020, they must have regard to the advice relating to coronavirus from the Chief Medical Officer for Scotland. In the event of any conflict between any applicable legislation (including health and safety legislation) and this guidance, the applicable legislation must prevail.'*

In that context, the NASUWT is confident that local authorities will wish to ensure that all schools and settings have:

- a comprehensive COVID-19 plan for opening, including new risk assessments, which has been the subject of full consultation with all staff and unions before any pupils are admitted in August;
- updated their fire risk assessments, in consultation with unions, to take account of the increased risk of having significant amounts of high-alcohol-content hand sanitiser on the premises and compliance with its safe storage requirements. Clear guidance must also be produced for staff to ensure its safe use;

- secured additional cleaning provision;
- clear signage to ensure physical distancing, high standards of hygiene practice and safe usage of the premises;
- conducted individual risk assessments for clinically vulnerable and extremely groups, including those who are pregnant, disabled, or who are from a BAME background and disproportionately affected by the virus, prior to their full return to the workplace;
- factored into their plans the safe deployment of supply teachers;
- provision of counselling support for staff and pupils;
- procedures in place to ensure that there is compliance with the measures in the risk assessments, that compliance is maintained and there is a procedure for dealing immediately with any breaches;
- a procedure in place to report and address any positive tests among staff and pupils for COVID-19;
- procedures in place to be able to respond rapidly and effectively to any announcement of a local lockdown.

The NASUWT also expects local authorities to remind schools that teachers' contractual rights, with regard to pay and other conditions of service, must be respected and adhered to, including when planning, for example, catch-up arrangements or staggered start and finish times.

The Union also reiterates the position it has stated previously, that we are putting employers and the Government on notice, by reserving our members' legal rights in the context of a delictual liability for breach of duty of care and personal injury due to foreseeable risk, and any other legal recourse available.

The Union will also consider an employer to be in breach of our members' legal rights, under Section 44 and 100 of the Employment Rights Act 1996, if they are subjected to detriment and/or dismissal in circumstances of danger which our members have reasonable belief to be serious and imminent. NASUWT members' rights, under sections 47B and 103A of the Employment Rights Act [protected disclosure for the purposes of whistleblowing], including their rights under the Equality Act, are also reserved.

The NASUWT recognises that schools and employers have been placed in a situation where the wrong decision will result in people becoming seriously ill and dying, and will therefore appreciate that there can be no compromise on health and safety. If this means that schools need to delay full opening to all pupils in order to ensure they can complete all necessary planning, consultation and training of staff required to safeguard the health and safety of staff and pupils, then that position must be accepted.

The NASUWT looks forward to working with you to ensure that the health, safety and welfare of staff and pupils are protected in these unprecedented circumstances.

Yours sincerely



Dr Patrick Roach
General Secretary