

Date: 18 September 2020

Our Ref: 200918/Williams K/PR/FC

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General Secretary/Ysgrifennydd Cyffredinol: **Dr Patrick Roach**

By email: DSME@gov.wales

Dear Kirsty,

On 28 April 2020 you set out five principles which would determine when and how schools would re-open in Wales. The first of these principles was: 'the safety and mental, emotional and physical wellbeing of students and staff.' The NASUWT continues to monitor carefully the situation regarding the upholding of this principle.

With rising numbers of confirmed Covid-19 cases in the wider community, our members are deeply concerned that, in the absence of effective control measures, there is increased risk of Covid-19 transmission within schools. We further note with concern that your Department is unable to provide any evidence on the effectiveness of the risk control measures recommended in your guidance to schools. Furthermore, you will be aware of the increasing number of schools where pupils and staff have tested positive for Covid-19 or are required to self-isolate. Our members are reporting:

- a) the depletion of staffing numbers in schools which is resulting in serious operational difficulties for schools in maintaining safe working practices at all times;
- b) the heightened risks to health for vulnerable teachers (including teachers who are otherwise categorised as clinically extremely vulnerable, pregnant teachers, older teachers, disabled teachers and teachers from BAME backgrounds) following your guidance on those who may return to work in schools;
- c) the lack of social distancing within schools, the absence of PPE and other effective non pharmaceutical interventions;
- d) the failure of the test and trace system to keep up with the demands on it.

The NASUWT seeks confirmation from you as to the steps you will now take to address the above concerns.

The NASUWT has been consulting with its members since the start of the Autumn term. The evidence from our preliminary polling raises further concerns about the urgent need for stronger protections to be introduced to ensure the Covid-secure working practices that the Government has promised.

According to our most recent survey data, we note with concern that measures recommended by your Department to mitigate the spread of COVID-19 were not in place consistently across school/college workplaces two weeks following full reopening.

In accordance with your first principle, our members have the right to the same considerations and protections in their workplaces that are being applied to other groups of workers. The NASUWT's expectation is that your Department will have conducted appropriate checks on the compliance by schools with your guidance and that you will have made provision for suitable ongoing monitoring and compliance arrangements. We would welcome confirmation from you as to the nature of the arrangements you have put in place and the evidence base on which you now rely.

We also seek confirmation from you that you have obtained assurances that the implementation by schools of your decisions on the reopening of schools are not in breach of schools' legal obligations relating to health and safety, employment or equalities.

For the avoidance of doubt, the NASUWT is and remains committed to ensuring that schools remain open safely as the country continues to deal with the challenges and consequences presented by the Coronavirus pandemic. However, it is incumbent on us to emphasise the serious issues that are arising as a result of the following:

- the failure of your Department to provide robust guidance and measures nationally to ensure that the sector adopts and maintains covid-safe working practices;
- the failure of your Department to implement appropriate measures to ensure compliance across all schools.

Therefore, the NASUWT is putting the Government on notice by expressly reserving our members' legal rights in the context of a tortious claim for breach of duty of care and personal injury due to foreseeable risk, and any other legal recourse available.

The NASUWT requests confirmation as to the measures you intend to take to address the concerns raised in this letter.

Given the gravity and urgency of these matters, I look forward to hearing from you as a matter of the utmost priority.

Yours sincerely,



Dr Patrick Roach
General Secretary