

July 2020

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To Directors of Education/Childrens' Services

COVID-19 – opening of schools in September 2020

Dear Colleague

On 23 June 2020, the Government announced its plans for the full opening of schools in September 2020.

This announcement was followed by the publication of the Department for Education (DfE) 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 September 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 DfE guidance on opening in September was not the final or complete guidance. Additional and amended guidance continues to be issued, a situation which is likely to continue for the next few weeks.

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 maintained schools and settings have completed their pre-opening health and safety checks. The NASUWT has produced a pre-opening health and safety checklist which is available at: www.nasuwat.org.uk/fullreopeningEngland, which we hope you will find helpful.

The Government's guidance for employers states that: *'this guidance does not supersede any legal obligations relating to health and safety, employment or equalities and it is important that as a business or an employer you continue to comply with your existing obligations, including relating to those individuals with protected characteristics'* (HM Government, Working safely during coronavirus (COVID-19)).

In that context, the NASUWT is confident that local authorities will wish to ensure that all maintained 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 September;
- 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 groups, including those who are pregnant, disabled, have underlying health conditions or who are from a BAME background, 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, and that this 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 tortious claim 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