

July 2020

Dear Head Teacher,

Thank you for providing an updated copy of the Risk Assessment documentation for your school. In reference to the equalities letter we attach for your immediate attention, we would appreciate you sharing the school's updated Equality Impact Assessment (EIA) once complete and also confirming how you will be conducting the individual risk assessments with staff. We would also like to take this opportunity to refer you to the guidance in the letter pack, 'Bottom Lines' document and Health and Safety Checklist we have previously shared.

As you are aware, the NASUWT recognises the importance of schools reopening to all children as soon as it is safe to do so. On 2nd July 2020, the Department for Education (DfE) published 'Guidance for full opening: schools' (the September guidance) to support schools and colleges to fully reopen in September and for early years and childcare providers to do so from 20th July. We have reviewed the guidance in detail and outline our response to schools in this letter. As further guidance is made available, we will write to you, as necessary.

Full Opening of Schools in September

We welcome some of the developments within the guidance which reminds employers and schools of their statutory duties and legal obligations with regard to health and safety, makes clear the essential steps that they must take to safeguard the welfare of all staff and pupils and to provide a safe working environment.

Everyone wants to see the safe return of pupils to schools. However, the Government's ambition for the full reopening of schools in September, will cause heightened anxiety among teachers and parents across the country in the absence of a clear, national plan to secure public confidence that a safe return is assured. This national plan is needed to address the many practical and logistical issues that have been raised by teachers and headteachers across the country. Without this, there will be continuing confusion and uncertainty.

A key step in building confidence will be for the Government to provide the scientific evidence on which its decisions to relax the protective measures in schools and to allow entire year-group cohorts to return have been made and to make clear what account is being taken of the latest evidence of virus transmission among 18 year-olds, which contributed to the local lockdown in Leicester.

The NASUWT has reviewed the September guidance in detail and has made representations to the Secretary of State for Education on:

- the discrepancies between the safety measures being applied to schools and other workplaces;
- the serious omissions, particularly in relation to equality impact.
- the need for continuing protections for teachers who are clinically or extremely clinically vulnerable and the importance of ensuring that the decisions on wider reopening do not further widen racial disparities in COVID-19 transmission and deaths;
- the need for additional funding and resources to support the implementation of the crucial health and safety measures, including the intensified cleaning and hygiene requirements;
- the introduction of a clear health and safety inspection and enforcement regime to give parents and teachers the reassurance they will need.

In the meantime, it is important for schools to note that:

- the September guidance relates to the arrangements for September 2020 and there should be no change to the arrangements currently in place in schools for this term;
- there has been no relaxation of any of the COVID-19 requirements for schools for this term;
- members who are currently homeworking should continue to do so;
- there has been no change to the Government guidance for those who are clinically or extremely clinically vulnerable, pregnant, for those who have a disability or for teachers who are BAME;
- employers and schools will begin to make plans for the September reopening this term. Our members will engage fully in the development of these. However, this should be carried out remotely and our members should not be required to attend meetings on site;
- there should be no expectation from employers that either teachers or headteachers will be available during the Summer holiday period to work on the arrangements for September. If the planning cannot be concluded by the end of term, then the timetable for the admission of pupils at the start of term will need to be deferred.

There are a significant number of measures specified in the guidance that require additional resources. For example, additional funding for school reopening, including funding for additional cleaning, materials, signage, and equipment to enable safe teaching and learning practice in schools, has been identified as an immediate priority by NASUWT members. We have sought clarification from the Government of what additional support will be made available to schools prior to the September return.

Compliance with health and safety obligations

Whilst we welcome the additional guidance provided to schools on the legal health and safety requirements that employers must meet, it remains important that parents and teachers are also assured that schools will, in practice, have in place

arrangements that comply with statutory obligations. Schools will also need to consider how they will meet their statutory obligations to take all reasonably practicable steps to ensure the health and safety of teachers and pupils in relation to pupils who refuse to obey risk assessment provisions, given that the guidance states that spitting is not sufficient to prevent access.

Inter-agency working

With the prospect of all children returning to schools in September, securing trust and confidence of teachers and parents will be critical to securing a successful reopening. This will require all schools to have access to data about COVID-19 infection rates in their local areas. We believe that it is essential that this information is essential if schools are to make appropriately planned arrangements in the event of a local spike in COVID-19 infections (including arrangements for communicating with parents and pupils). Our members recognise that when dealing with a public health emergency, it is necessary for agencies to work together in the interests of children and young people and the local community.

The need for additional resources and support

We do not want to see any schools cutting corners on cleaning and hygiene. The September guidance makes clear that schools will need additional and meticulous cleaning provision. This will therefore require additional and appropriately trained cleaning staff to be available throughout the day. This will be over and above the provision that schools would normally have available. It is vital that every school is able to ensure that classrooms, gyms, communal and dining areas, kitchens, curriculum resources and equipment, toilets and recreational areas can be cleaned regularly and appropriately throughout the day and at the beginning and end of each day. We would want to be assured that, in accordance with the COSHH regulations, only trained cleaners should be undertaking cleaning duties, especially given the potential adverse impacts that may be caused from the misuse of detergents and bleaches.

Our members would also want to ensure that effective teaching and learning can continue whilst schools are open to all pupils. As more pupils utilise essential equipment during their lessons, it will be necessary for additional resources and stocks of equipment to be available in order that lessons are not delayed, in order to enable essential items of equipment and other materials to be thoroughly cleaned and checked, ready for use by another group of pupils. In order for meticulous cleaning of equipment and resources to take place, additional cleaning resources will also be required for this purpose.

We recognise the Government's aim for a full return of all children to schools from September. However, our members are asking for clarity as to how schools will maintain appropriate continuity of onsite provision for pupils in the event of teacher absences. Indeed, in the event of a second wave of infections, a teacher may be required to self-isolate, necessitating additional qualified teacher cover whilst their

school remains open to all pupils. We trust that you would agree that the return of schools cannot be predicated on the basis that teaching and learning should be led by support staff. Our members recognise that the safest way to achieve such cover safely and appropriately is with the provision of additional teachers available within schools, including through the provision of teachers on long-term supply teacher assignments. Long-term supply assignments entered into by schools prior to September would not only support plans for COVID-secure education bubbles to be formed and maintained, but would also ensure that cover teachers are familiar with the COVID security arrangements within the school and therefore better prepared to keep children safe.

Whilst we welcome the continued emphasis that those with COVID-19 symptoms should not attend schools, given that it is accepted that children often have milder/no symptoms, extending this emphasis to include any flu-like symptoms, however mild, will prevent COVID-19 cases being overlooked or misdiagnosed as a cold or flu, and aid in avoiding school-based outbreaks that could be extremely disruptive.

The September guidance is clear that schools must have in place a robust plan for remote learning provision in the event that onsite provision for children is disrupted for any reason. It is clear that such a requirement will place additional burdens on schools and, unless appropriately managed, this could significantly increase the workload demands on teachers. We support the concept of blended learning provision; however, this must also be sustainable. It is not sustainable or reasonable to expect teachers and headteachers to organise, plan and deliver provision onsite to pupils during the day whilst also organising, planning and delivering remote learning support for pupils who are not, or who may not, be in school at some point, without additional resourcing and support for teachers. Our members are asking for clarity as to what additional resourcing will be available to support the provision of remote learning for pupils, including to fund the provision of additional teachers, materials, and technology to enable equality of access for all pupils, irrespective of their household circumstances.

Education bubbles

Our members recognise the need to introduce education bubbles as a strategy to reduce the risk of virus transmission. However, there are considerable practical concerns that our members have raised which we would ask the school to consider, including:

- the logistical challenge of securing sufficient provision of home-school transport for pupils that does not result in mixing of pupils in different year group cohorts or mixing of pupils from different schools.
- the logistical and additional implications associated with the implementation of staggered start and finish times.
- the additional cost of providing suitable home-school transport for pupils, and to ensure that such transport is cleaned appropriately to the level and frequency that schools will require.

- the additional workload and working hours implications arising from the guidance and the need for additional funding to enable extra staff to be deployed to enable schools to implement staggered start and finish times for pupils.

In terms of social distancing, the guidance advises schools that pupils should sit in forward-facing desks. Where secondary schools have fixed seating in rooms such as science labs and technology rooms, etc., they may need to reconfigure classrooms in order to maintain teaching and learning provision. This will require remedial works to be undertaken.

Support for Black and Minority Ethnic and clinically vulnerable teachers

We have previously raised with you our concerns about support for Black and Minority Ethnic (BAME) teachers and those at risk. It is therefore deeply regrettable that the September guidance fails to advise schools adequately on meeting obligations under the Equality Act 2010, which is also critical to meeting schools' legal obligations appropriately with regard to health and safety. We share further concerns in the equalities letter included with this letter.

In addition, the September guidance has also prompted our members to raise concerns about the support available for all teachers who are clinically vulnerable and clinically extremely vulnerable, or who are living in households with other vulnerable persons or with persons with underlying health conditions, or who are pregnant. The guidance assumes that all teachers will be able to return to the workplace; however, that will only be possible with additional staffing support to enable risks to these staff to be further reduced, including with the implementation of additional risk control measures. For example, we would expect that schools may need to organise their staffing in such ways as to minimise the risks to teachers who are amongst the most vulnerable of contracting the virus, and for those who are at greater risk of becoming seriously ill or dying. This may mean significantly reducing the amount of pupil contact that such teachers are asked to undertake or offering more support for these teachers in the form of Personal Protective Equipment (PPE) and an insistence on stringent two-metre social distancing.

We would also suggest the targeted provision of COVID-19 testing, including the use of antibody tests for staff and regular temperature checks of pupils, and the introduction of swab tests for those who may be expected to be taught or supervised by these teachers, to enable such teachers to be deployed in the workplace with greater confidence. Our members recognise that such measures will require additional staffing to enable schools to deploy vulnerable teachers appropriately, taking account of the additional risks they face.

Managing Local Lockdowns

In light of the recent experiences in the city of Leicester, the NASUWT believes that in order to ensure clarity and the confidence of our members, it is vital that clear

information is needed about the practical steps that will be taken in the event of further local spikes in coronavirus transmission or in the event of a local lockdown in other areas. There are a number of practical questions from NASUWT members about how a local lockdown will apply to schools, including:

- How much notice can schools expect to receive?
- Who will provide schools with notice that lockdown will be required?
- What provision will schools be required to make for pupils on site?
- What provision will be made for pupils eligible for free school meals?
- What additional control measures will need to be applied in schools where they remain open to some children during the period of the local lockdown (e.g. social distancing rules; PPE provision; test/trace; etc.)?
- What enforcement measures will be applied to schools that do not follow the local lockdown rules?
- Will additional coronavirus funding be reinstated to assist schools in the event of a local lockdown?
- What provision will be made on the lifting of lockdown controls, including for the phased reopening of schools within the lockdown area and the provision of Coronavirus testing?

Finally, our members would also welcome further clarity in the event of a confirmed case of COVID-19 within school and the triggers for sending some or all pupils and staff home to self-isolate. We would also seek clarification for schools, to make clear, that in the event of a positive case of COVID-19, schools must always contact the health protection teams, rather than this being optional for schools to do.

The NASUWT continues to work with employers at local, regional and national level to represent and protect the interests of our members. We will also continue to support our members and schools to plan for the safe return to schools of all children and young people.

We hope this letter and the information included is useful.

Yours faithfully,

Pippa Richings, Nigel Buckler and Manjinder Bhandal
NASUWT Coventry

Enc. Equalities Act 2010 Letter

July 2020

Dear Head Teacher / Principal / Executive Principal / Chief Executive Officer

Re: Equalities Act 2010

We are concerned that not all schools, academies, free schools and colleges are fulfilling their duty under the Equalities Act 2010 and the Public Sector Equality Duty in carrying out Equality Impact Assessments (EIAs) for staff, pupils, and the wider community. We are also concerned that not all education establishments are carrying out individual risk assessments with vulnerable staff and that the generic school risk assessment templates being used are not adequate in this regard. It has been well documented that COVID-19 disproportionately impacts BAME groups, disabled people, those over 50, those who are pregnant and other protected characteristics.

As you are aware, all public bodies are required under the Public Sector Equality Duty to have due regard to the need to achieve the objectives set out under Section 149 of the Equality Act 2010 and to publish equality objectives and information to demonstrate their compliance with the Public Sector Equality Duty. This is to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

To ensure transparency, and to assist in the performance of this duty, the Equality Act 2010 (Specific Duties) Regulations 2011 further require public authorities to publish equality objectives and information to demonstrate their compliance with the public sector equality duty.

The Government's guidance for employers states that on any guidance supplied it *'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 the 'Overview of scientific advice and information on coronavirus (COVID-19)' published by the Government on 15 May 2020 it states that: *'This provisional analysis has shown that the risk of death involving coronavirus (COVID-19) among some ethnic*

groups is significantly higher than that of those of White ethnicity. Further research is needed to understand why some ethnic groups have higher death rates from coronavirus (COVID-19) than others...Schools should be especially sensitive to the needs and worries of BAME members of staff, BAME parents and BAME pupils.'

Amongst Black, Asian and Minority Ethnic (BAME) populations, there is substantial evidence that they are disproportionately more likely to be impacted by COVID-19 infections and deaths. Evidence published within Public Health England (PHE) reviews of racial disparities published on 2nd June 2020 ¹ and 16th June 2020 ¹ in relation to COVID-19 has confirmed there is an association between belonging to some ethnic groups and the likelihood of testing positive and dying of COVID-19. The PHE reviews have found that the highest age-standardised diagnosis rates of COVID-19 per 100,000 population were in people of Black ethnic groups (486 in females and 649 in males) and the lowest were in people of White ethnic groups (220 in females and 224 in males).

Furthermore, the reports concluded that *'the largest disparity found was by age. Among people already diagnosed with COVID19, people who were 80 or older were seventy times more likely to die than those under 40. Risk of dying among those diagnosed with COVID-19 was also higher in males than females; higher in those living in the more deprived areas than those living in the least deprived; and higher in those in Black, Asian and Minority Ethnic (BAME) groups than in White ethnic groups.'* On BAME the reports went further to state that *'an analysis of survival among confirmed COVID-19 cases and using more detailed ethnic groups, shows that after accounting for the effect of sex, age, deprivation and region, people of Bangladeshi ethnicity had around twice the risk of death than people of White British ethnicity. People of Chinese, Indian, Pakistani, Other Asian, Caribbean and Other Black ethnicity had between 10 and 50% higher risk of death when compared to White British.'* There were further findings in these reports, and we request that the contents of both reports are carefully considered.

The NASUWT has extensive data from research and casework involving teachers which indicates that:

- few school and college employers have considered race equality impacts as part of their plans and arrangements for the wider reopening of schools now and from September 2020;
- BAME teachers are facing significant pressures to return to the workplace in the absence of racial equality impact assessments;
- risk assessments in schools have not been equality impact assessed and few school and college employers have published their risk assessments;
- Government guidance for schools and colleges includes no specific advice on how to mitigate adverse racial equality impacts from COVID-19 in the reopening of schools and colleges;

¹ <https://www.gov.uk/government/publications/covid-19-review-of-disparities-in-risks-and-outcomes> and <https://www.gov.uk/government/publications/covid-19-understanding-the-impact-on-bame-communities>

- BAME teachers are around 50% more likely to say they do not feel safe about plans for the reopening of schools compared to their white peers;
- BAME teachers are significantly more likely to report being threatened by their employer with disciplinary proceedings or job loss when expressing concerns about returning to the workplace, when compared with their white peers;
- BAME teachers report feeling less supported by their employer overall and they are also more likely to report being denied access to personal protective equipment (PPE) when compared with their white peers;
- BAME teachers report experiencing systemic racism, with nearly two thirds (66%) reporting that in the last year levels of racism in the workplace had increased or remained the same.²

Against this backdrop, all schools/colleges need to take positive action in terms of the implementation of planning and control measures to minimise discriminatory impacts of COVID-19 transmission as they move to reopen fully to pupils from September 2020.

Our expectations are clear as referenced in our 'Bottom Lines' and Health and Safety Checklist shared previously with you that *'an equality impact of measures should be proposed prior to the wider reopening of the school, including the impact on teachers who are disabled and/or from a black and minority ethnic (BME) background.'* There is a requirement for Equality Impact Assessments and individual risk assessments to be carried out with staff disproportionately at risk **prior to wider reopening** and this must be made explicit in the risk assessment guidance and documentation as the assessment outcomes could have an impact on staffing audits for schools.

We would expect schools to treat all staff in this situation as vulnerable and able to work from home. If this is not possible (due to the nature of the work) we would expect **thorough risk assessments for individual staff to be carried out taking full account of the control measures in Appendix 1 in consultation with them** which includes **social distancing** and **adequate Personal Protective Equipment (PPE)**.

The NASUWT has an obligation to our members to act to protect their rights under the Equality Act 2010. We wanted to bring these issues to your attention in the spirit of partnership working and consultation. Given the importance and immediacy of this issue for our members, we trust that you will give this matter your immediate and urgent attention.

Yours faithfully,

Pippa Richings (Local Negotiating Secretary)
 Manjinder Bhandal (Equalities and Health & Safety Representative)
 NASUWT Coventry

² NASUWT BME Teachers' Conference Survey 2020.

Appendix 1: **BAME control measures for the full reopening of schools/colleges**

Please note: The control measures below are referenced for BAME staff but we would expect them to be considered for all protected characteristics disproportionately impacted by COVID-19 as highlighted in the equalities letter.

The Department for Education's (DfE's) guidance on full reopening from September confirms that schools should discuss the concerns that BAME teachers will have about returning to the workplace and explain the measures they are putting in place to reduce risks. The guidance also confirms that school leaders should try as far as practically possible to accommodate additional measures where appropriate.

The NASUWT is clear that appropriate compliance with this guidance means that steps should be taken on the following measures:

1. Work from home wherever possible

It is clear that minimising social contact and interactions can help to minimise the spread of the virus. In the absence of clear evidence about the causes of disproportionate virus transmission rates by ethnicity, employers should consider deploying BAME staff to work from home wherever possible. Deploying BAME teachers to support the development and provision of the school's remote learning offer, as well as pastoral and other support for pupils whilst working from home should also help to ensure the school's resilience in the event of a future second wave of the pandemic.

2. Guaranteed PPE

The provision of PPE has been identified as a significant factor in the rate of COVID-19 transmission and deaths amongst BAME health and social care staff. PPE, including gloves and face masks, should be provided as an entitlement for all BAME staff as part of a discrete positive action measure.

3. Test and Trace

Test and Trace is key to tackling the spread of the virus. A priority programme of Test and Trace targeting BAME staff should be implemented. Pupils in classes taught by BAME teachers should also be prioritised for daily/weekly testing, including the use of temperature testing and swab tests.

4. Apply social distancing/bubbles stringently

Reducing contact with pupils and with other adults can help to prevent the spread of the virus. Two-metre social distancing should be practised stringently in classrooms/settings where BAME staff are working. Where BAME teachers are working with younger children, group sizes (bubbles) should be kept to the smallest possible number.

5. Practise workforce audit and intervention measures

Collect and analyse data on the ethnic/racial and religious backgrounds, gender and age profiles and underlying health conditions of staff and their deployment to identify potential areas of the school's structures or practices that may require additional intervention or control measures to be put in place. (This should include deploying BAME staff to roles where they can practise two metre social distancing, deployment of BAME staff to larger rooms with good natural ventilation, minimising the requirement for BAME staff to move around the building or between buildings during the day, and limiting wherever possible the need for BAME staff to supervise large pupil groups such as at break/lunch times or meetings with parents.)

6. Ensure fair risk assessment practice

Utilise culturally competent occupational risk assessment practices to reduce the risk of employees' exposure to and acquisition of COVID-19, including through the provision of equality and diversity training and development for managers and governors in the management of good risk assessment practice.

7. Undertake specific BAME risk assessments

Schools/colleges should undertake risk assessments for BAME employees, taking account of the specific circumstances in which BAME staff are deployed to work, and taking account of the employee's age, gender and underlying health conditions.

8. Assess race equality impacts

Employers should review their risk assessment and control measures and consider how their plans will eliminate racial discrimination, advance racial equality and promote good relations with different racial groups, taking account of gender and age factors. These equality impact assessments should be published to help foster public confidence.

9. Review local transmission data

Data in respect of the local 'R' number should be shared with school/college employers regularly, including data in respect of the 'R' number for BAME populations, to enable employers effectively to keep under review their COVID-19 risk assessments, controls and contingency plans.

10. Communicate and engage with relevant local stakeholders

Schools/colleges should engage with BAME staff, parents, and pupils through targeted and non-stigmatising consultation strategies, and provide appropriately targeted information and education campaigns to help reinforce key messages on the importance of individual, household and workplace risk control measures.