

NEU Guidance for Members, Reps and Local Officers

Pupils' playtime activities are beneficial not just for their enjoyment and health but also to encourage them to develop independence, social skills and the ability to learn to handle risks for themselves. This briefing sets out advice and guidance on playground supervision to allow children to play safely.

THE LEGAL BACKGROUND

Health and safety responsibilities derive from the Health and Safety at Work, etc, Act 1974 and the associated Management of Health and Safety at Work Regulations 1999. Pupils are protected by this law because they are affected by an employer's undertaking. The legislation is based on the duty to assess and manage risk and is enforced by the Health and Safety Executive (HSE).

Who is responsible for pupil health and safety

The employer has the ultimate responsibility for pupil health and safety. Who this is varies with the type of school. The employer is:

- the local authority (LA) in community schools including special schools, voluntary controlled schools, maintained nursery schools and pupil referral units;
- the academy trust in academies which are part of a chain;
- the governing body in foundation schools, foundation special schools, voluntary aided schools and stand-alone academies.
- the college corporation in sixth form and FE colleges.

The employer must ensure, as far as is reasonably practicable, the health and safety of pupils on school and on off-site visits. The employer must have a health and safety policy and arrangements to implement it. DfE advice on health and safety for schools is available [online](#). The employer must assess the risks of all activities, introduce measures to manage those risks and tell their employees about the measures.

Employees in any kind of school must:

- take reasonable care of their own and others' health and safety;
- co-operate with their employer;
- carry out activities in accordance with training and instructions;
- inform the employer of any serious risk.

The employer has the power to ensure that its health and safety policy is carried out. They must provide health and safety guidance to schools and ensure that staff who are delegated tasks, such as risk assessment and risk management, are competent to carry them out. If risk assessment shows training is needed the employer must make sure this takes place. The employer cannot fulfil its statutory duty unless it monitors how its policy is being complied with by its school or schools.

An LA has no responsibilities for, and no power to intervene in, pupil health and safety in schools where it is not the employer, except where safety (not health) is threatened by, for example a breakdown in discipline.

RISK ASSESSMENT

A risk assessment of the potential hazards in the playground and their likelihood to cause harm must be undertaken (Management of Health and Safety Regs 1999). The following must be included in the risk assessment process:

- equipment;
- layout;
- ages of children using the playground;
- security – visitors using entrances and exits;
- traffic and parking facilities;
- pupils with special needs.

Control measures may include:

- alteration of staff pupil ratios;
- staggered lunchtimes for KS1 and 2 in primary schools;
- for example: use of playground equipment on a rota basis to reduce pressure of numbers;
- familiarity of staff and users with emergency protocol; and
- availability of a senior management team member at all times during the mid-session or lunch breaks when the pupils are using the playground.

A generic risk assessment form for use in assessing hazards in playgrounds is attached at appendix one.

There is no official advice on how many adults should be in charge of pupils during lunch and other breaks. Schools are seen to be best placed to assess the local risks and to put in enough competent supervisors to manage the risks. Parents of course need to be told at what time the school begins to supervise the children at the start of the school day and the time in the afternoon when supervision ends.

In many areas, the support staff unions will have negotiated local agreements on recommended staff:pupil ratios at each key stage. It is important to remember, however, that these ratios will be the minimum applicable and should be adjusted upwards to take account of particular hazards as part of the risk assessment process.

TEACHERS' PROFESSIONAL DUTIES

Teachers' professional duties, set out in the [School Teachers' Pay and Conditions Document](#), include 'promoting the safety and well-being of pupils' and 'maintaining good order and discipline'.

Head teachers are in turn responsible for ensuring that adequate supervision arrangements are in operation in schools, although this does not necessarily require their physical presence on the premises.

Lunch time supervision

Teachers cannot be directed to supervise pupils during the midday break. The Pay and Conditions Document states that "... no teacher shall be required under his contract as a teacher to undertake midday supervision, and must be allowed one break of reasonable length either between school sessions or between the hours of 12 noon and 2 pm".

Although the STPCD does not define "a break of reasonable length", the NEU believes that the teacher's midday break should be at least one hour.

Teachers may in theory be reasonably directed to undertake non-teaching activities other than the supervision of pupils during the pupil lunch break. The NEU believes, however, that such a direction would be reasonable only in exceptional circumstances where the teacher still receives a midday break of “reasonable length” as above.

Teachers may, however, agree to undertake midday supervision of pupils on a voluntary basis. Any teacher who volunteers to supervise pupils eating their lunch is entitled to receive a free school meal, by virtue of the Burgundy Book national conditions of service agreement, which incorporates the terms of the 1968 national school meals agreement. Teachers may also agree to undertake pupil supervision for payment under a separate contract of employment as a midday supervisor. The NEU has received queries about whether free lunches provided to teachers who carry out lunchtime supervision are a ‘benefit in kind’ and therefore subject to tax liabilities. NEU advice on this matter is that there is no reference in the Burgundy Book to tax liabilities, and we would expect an employer to provide firm evidence that its interpretation of HMRC rules applies to the provision for free school meals for staff. The Citizens Advice Bureau advises that free meals if provided for all employees are tax-free, so one solution to this issue would be to provide free lunchtime meals for all staff, for instance through an agreement with the school meals provider.

Break time supervision

Teachers may, however, be reasonably directed to supervise pupils during break times. In the NEU’s view, supervision should be on a rota basis, with all staff, whatever their level of seniority, taking their turn. Although all staff are on-call in case of an emergency, it would be unreasonable and unnecessary for all staff to be involved in break time supervision. Staff on rota duty should in addition be given the opportunity for a short “comfort” break.

Arrival and departure of pupils

Teachers may also be reasonably directed to supervise the safe arrival and departure of pupils at the start and end of school sessions.

Schools should set out the exact time at which the supervision of pupils on the school site will begin in the morning so that parents do not leave their children unattended before this time. Access by pupils to school premises before school supervision times should be prevented. The school may be liable if a pupil is left on school premises before adequate supervision is in place and they suffer an injury. The same applies for arrangements for the collection or departure of pupils in the afternoon. Any changes to these arrangements should be given to parents with reasonable notice so that they can make new arrangements for the delivery or collection of their children. This information should form part of the school information pack provided to parents and updated on a regular basis.

Limits upon supervision time

The NEU believes that it is reasonable for teachers to be directed to be on the school premises to undertake such supervision only for ten minutes at the start and end of the school day and five minutes at the start and end of the pupil lunch break. The NEU believes that parents should be advised of the time at which the morning supervision arrangements begin and be informed that before that time their child should either not be on the premises, or should be supervised by a parent or other responsible person.

Bus Duties

The NEU does not believe that it is reasonable for teachers to be directed to supervise pupils awaiting or boarding school buses at the end of the day, where the pupils are no longer on school premises. The NEU believes that the head teacher should inform parents that pupils waiting for their school bus will not be under teachers’ supervision and, should problems arise such as persistent lateness of buses, that the head teacher should discuss these problems with the school employer or the bus company.

Organisation of traffic routes

Regulation 17 of the Workplace Health Safety and Welfare Regulations states:

Playground Supervision

1. *Every workplace shall be organised in such a way that pedestrians and vehicles can circulate in a safe manner.*
2. *Traffic routes in a workplace shall be suitable for the persons or vehicles using them, sufficient in number, in suitable positions and of sufficient size.*
3. *Without prejudice to the generality of paragraph (2), traffic routes shall not satisfy the requirements of that paragraph unless suitable measures are taken to ensure that:*
 - (a) *pedestrians or, as the case may be, vehicles may use a traffic route without causing danger to the health or safety of persons at work near it;*
 - (b) *there is sufficient separation of any traffic route for vehicles from doors or gates or from traffic routes for pedestrians which lead onto it; and*
 - (c) *where vehicles and pedestrians use the same traffic route, there is sufficient separation between them.*
4. *All traffic routes shall be suitably indicated where necessary for reasons of health or safety.*
5. *Paragraph (2) shall apply so far as is reasonably practicable, to a workplace which is not a new workplace, a modification, an extension or a conversion.*

In a school setting, particular attention should be given to:

- car park areas;
- travel provision for special needs pupils (i.e. taxis and/or minibuses);
- clear separation of pedestrian routes and traffic.

Checklist for health and safety representatives

1. Ensure that risk assessments are carried out on playground areas; and traffic on premises and that control measures are regularly reviewed.
2. Teachers are not responsible for carrying out risk assessments although they can be asked to contribute to the process.
3. Establish clear procedures for the arrival and departure of pupils and ensure parents/carers are provided with this information.
4. Supervision procedures are in place for bus duties on premises, lunchtimes and break duties.

Useful Information

- NEU Briefing on Risk Assessment
- Teachers' Working Time and Duties – An NEU Guide
- [Royal Society for the Prevention of Accidents](#)

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APPENDIX 1

Example of a risk assessment form

Name of School.....

Area covered by this risk assessment.....

Identify significant hazard	Who might be harmed? (e.g. pupils, teachers, support staff, visitors)	How? (what type of injury/ill health might be caused)	Are adequate preventative measures in place? (yes or no)	If not, what else will be done and when by?	When will this assessment be reviewed?

Name of Assessor.....

Date when risk assessment undertaken.....

Received by.....**(Head Teacher)**
on.....**(date)**

Copied to Chair of Governors.....
on.....**(date)**

Signature of Chair of Governors.....