

NEU Guidance for Members, Reps and Local Officers

More than fifteen per cent of the school workforce is aged over 50. Some employers, however, can be uncertain about risk management where older members of staff are concerned, and this briefing seeks to establish some basic principles in this regard.

Secondly, this briefing considers a number of health and social issues which may affect older school staff and suggests sources of further information and support.

It is important to be clear from the outset that older teachers do not present a risk in the workplace, rather that the employer should consider different groups of workers when undertaking risk management and protecting the health and safety of their workforce.

What is an older worker?

Ageing is something that takes place over time and there is no fixed point at which anyone becomes an 'older worker'. Issues that affect older workers should be addressed and tackled at the point they arise, whatever age they develop.

What is the role of the employer in respect of older workers?

Employers are just as responsible for the health and safety of older employees as they are for the whole workforce. Under health and safety law, employers must ensure, so far as is reasonably practicable, the health and safety of all their employees, irrespective of age. Employers must also provide adequate information, instruction, training and supervision to enable their employees to carry out their work safely.

Under the Management of Health and Safety at Work Regulations 1999, employers have a duty to make a suitable and sufficient assessment of the workplace risks to the health and safety of his employees. This includes identifying groups of workers who might be particularly at risk, which could include older workers.

Whilst a separate risk assessment is not necessarily required for older workers, if there are any issues that arise at a school because there are older workers employed these have to be identified by the risk assessment, and any risk must be removed or reduced 'as far as is reasonably practical'. It is often the case that, for physiological reasons, older colleagues are more susceptible to certain hazards than their younger counterparts. It must be noted, however, that a workplace culture which values all staff and provides decent working conditions for everyone is likely to need to make fewer adjustments to accommodate individual needs.

Employers must **not** use health and safety as an excuse to avoid employing older people, as this would constitute age discrimination. It is regrettable, however, that some employers harbour negative and stereotyped views of the skills and abilities of older workers, and fail to appreciate the value they bring to the workforce, especially in terms of their wealth of skills and experience garnered over many years. The NEU campaigns vigorously against discrimination in all forms, including age discrimination.

What about risk assessments for older workers?

Employers should consider the circumstances of older workers as part of their overall risk assessment, and consider whether any changes are needed. For example, when examining its fire

risk assessment, a school might consider the location of different teachers' classrooms in relation to escape routes and proximity of exits. Logically, the classroom of an older teacher with impaired mobility should not be sited remotely from fire exits as this might increase the risk of harm arising, either to the teacher or the teacher's class, from any fire hazard in the vicinity. Risk assessments should be kept up to date to take account of such circumstances and remove the risk or reduce it to its lowest possible level. In this case a Personal Emergency Evacuation Plan (PEEP) tailored to individual needs of the employee concerned should be drawn up and followed.

Some expectations on staff may not always be fully considered from the viewpoint of the older member of staff. For example, a school may have an expectation that it is an inevitable working practice for teachers and classroom staff routinely to sit – when they sit at all - on child-sized chairs, or to subject themselves to periods of prolonged standing, bending, stooping or kneeling. Such expectations create risks of developing musculo-skeletal disorders (MSDs) for staff of any age, but this risk is likely to be heightened for older teachers who may have pre-existing conditions which could be further aggravated by regular exposure to poor ergonomic working arrangements. See NEU health and safety briefing on Classroom Ergonomics, available at www.neu.org.uk.

In relation to physical activity such as lifting and handling loads, employers should not consider such tasks part of the professional role of teachers, regardless of their age. It may be common practice for physically able teachers to lift heavy loads, such as text books or furniture, but such activities can again contribute to injury and musculo-skeletal disorders. If older teachers are unable to undertake such tasks, they should not be considered to be omitting part of their role. Therefore, when carrying out risk assessments, employers must ensure that the role and work is tailored to the staff member, rather than vice versa. See further NEU health and safety briefing Lifting and Handling, available at www.neu.org.uk.

It is a good idea for employers to **consult** older employees when considering control measures to put in place in respect of any hazard. Their perspective and experience will often turn out to be invaluable.

What health and safety responsibilities do older workers have?

Older workers, like any other employee, are obliged by the Health and Safety at Work etc. Act 1974 to take care of their own health and safety, and that of others who may be affected by their actions/omissions. They must cooperate with their employer and other employees to help everyone meet their legal requirements; and must also not interfere with, or misuse, anything provided for the purpose of compliance with health and safety legislation.

Moreover, the Management of Health and Safety at Work Regulations 1999 require all employees to report situations of serious and/or imminent danger to employers and to report conditions which they consider represent a shortfall in employers' health and safety protection arrangements.

Finally, all teachers are required to do "all that is reasonable under the circumstances to safeguard or promote the welfare of children" (Section 3(5) of the Children Act 1989).

I have a health condition which I believe to be a disability. What are my rights?

Employers of staff with medical conditions defined as disabilities under the terms of the **Equality Act 2010** must take action to remove or reduce workplace barriers for the disabled employee in doing their job. This duty is known as the duty to make reasonable adjustments. The Equality Act defines a disability as a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities.

How many accidents at work do older workers have?

Older workers are **statistically less likely** to have occupational accidents than younger workers. However, any accidents they do have are likely to result in more serious injuries, permanent

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disabilities or death than younger workers. Older workers may experience **more slips, trips and falls** than their younger colleagues, and recovery following an injury may take longer.

What about medical conditions?

There are a wide range of medical conditions which are more likely to affect older workers than their younger colleagues. It is not the purpose of this document to set out an exhaustive list describing such conditions as the provision of information and advice about individual diseases and conditions is more properly the domain of the appropriate medical professional(s) providing care to the worker concerned.

Instead, one of the key purposes of this briefing is to focus on the *response* of the employer to situations in which medical conditions are creating a barrier to work amongst older workers, and how the employer, assisted by the occupational health service provider, should facilitate appropriate working arrangements in compliance with the relevant legislation.

What role is played by occupational health?

Employees should also have access to appropriate occupational health arrangements to which they can be referred - usually by their GP. It is the responsibility of the occupational health professional to assess the individual's fitness to return to work. In cases where an employee is deemed fit to return to their job, and any reasonable adjustments proposed by the occupational health professional have been agreed by the employer, arrangements may be made for a 'phased return' to work, where the employee's return to work can be gradually increased over several weeks rather than resuming full time duties immediately.

As stated above, where the symptoms of such conditions constitute a disability as defined by the Equality Act 2010, the employer has a **duty** to make reasonable adjustments in order to remove or reduce workplace barriers for the disabled employee in doing their job.

Excessive workload, stress and mental ill-health

For many years, education has statistically remained in the top three most stressful occupations in the country. It is not surprising, therefore, that many school employees - of all ages - can find it hard to cope at work, and Government reforms to pay, conditions and pensions over the past few years have only aggravated the problem. The [Education Support Partnership](#) is a dedicated charity set up to support teachers and school staff and can be contacted 24 hours a day, 7 days a week. Their telephone line is staffed by trained counsellors who understand the problems school staff face and are equipped to give tailored advice to school workers, taking into account all relevant factors, including their ages and career stages.

Information on mental health issues can be obtained from the charity [Mind](#). The GP should of course be the first port of call in seeking treatment for mental health problems.

Attending medical appointments during school hours

Older workers may need to attend medical appointments, some of which may be during school hours. This is particularly likely to be so in the case of hospital appointments. Most employers' leave of absence policies do permit reasonable time off in such circumstances – any NEU member experiencing problems with regard to attending medical appointments should speak to their NEU school representative in the first instance. If there is no NEU representative, contact the [NEU Adviceline](#).

Caring responsibilities

Another issue which is possibly more common amongst older workers is that they may be more likely to be caring for a parent, a partner, other family members or indeed a friend.

The extent of the caring responsibilities may differ widely depending on the individual circumstances.

Carers have certain basic rights. They have the right to:

- Have their views taken into consideration by social services when deciding how best to meet the needs of the person cared for.
- A carer's assessment.
- Request flexible working from their employer.
- Receive financial support through Carer's Allowance.

Carers may also have the right to:

- Receive assistance from social services including practical help and counselling.

Time off to care for dependants

The Employment Rights Act 1999 (ERA) gives a right to every employee, regardless of length of service, to take a reasonable amount of unpaid time off work "to take action which is necessary" to help when a dependant gives birth, falls ill or is injured or assaulted. A "dependant" in this context means spouse or civil partner, partner (including same-sex partner) child or parent of the employee or any member of the employee's household who is not their employee, tenant, lodger or boarder.

A dependant is also any person who reasonably relies on the employee for assistance on an occasion when the person falls ill or is injured or assaulted, or to make arrangements for the provision of care in the event of illness or injury. This will include, for example, elderly relatives not living in the same household but reliant on the employee to assist them in the event of illness or injury.

No qualifying period of service is required, and all employees will have the right to time off. A "reasonable" amount of unpaid time off is allowed, although there is no definition of what is "reasonable" and it will, therefore, vary according to each case and each set of circumstances.

Employees may, however, have contractual rights to time off which are better than these minimum statutory rights as a result of a local agreement on conditions of service between the employer and the NEU and other education unions. For example, some employers operate policies which enhance the above statutory provisions by granting a certain number of days of paid leave each year for the purpose of providing care for dependants. This may extend to the provision of paid time off for caring responsibilities that may be more planned in nature, such as accompanying a family member to medical appointments or appointments relating to care and welfare (such as making arrangement for resettlement of people in long-term sheltered accommodation/nursing home/psychiatric care etc.).

Pensions

Employees' individual circumstances will affect the retirement options they choose, and health issues will inevitably play a part in such decisions.

General guidance on pensions can be found on the NEU website and information on pensions can also be obtained from the NEU AdviceLine on 0345 811 811 or, in Wales, NEU Cymru on 029 2946 5000. Please note, however, that for specialist individual advice on pensions and retirement planning you should seek the advice of an Independent Financial Adviser.

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SOURCES OF GUIDANCE AND HELP

NEU Health and Safety Briefings (available at www.neu.org.uk)

The NEU has produced a number of Health and Safety Briefings relevant to supporting not only older but all school staff some of which are listed below.

- Women's Health and Safety
- Accidents and Injuries
- Keeping Happy and Healthy
- Preventing Work-Related Mental Health conditions by Tackling Stress
- Tackling Stress
- Valuing Women: Working Through the Menopause
- Voice Care

Making Work Fit

This NEU document Making Work Fit (available at www.neu.org.uk) provides comprehensive guidance on issues affecting staff in need of reasonable adjustments. It addresses complex issues, such as the legal right to reasonable adjustments and the role of GPs and occupational health, in an easy to read format.

Department for Work and Pensions (DWP)

The DWP document [*Improving Opportunities for Older People*](#) provides advice and guidance on issues facing older people. Further information on Government policy for old people is available [here](#).

Healthy Workplaces for All Ages (EU-OSHA)

The European Agency for Safety and Health at Work launched a campaign in 2016 called *Healthy Workplaces for All Ages* which looks at how employers can best support their employees in light of increasingly aging workforces and retirement ages. There is an online e-guide which includes sections for workers and health and safety professionals (including safety reps) which is available [here](#).

ACTION POINTS FOR HEALTH AND SAFETY REPRESENTATIVES

What can I do to safeguard the health and safety of older employees?

- ✓ Make sure new and existing health and safety policies have taken the needs of older employees into consideration.
- ✓ Look for hazards which may affect older workers in particular and which may not be obvious to younger teachers. Investigate likely causes and consider possible solutions. A minor alteration may be all that is necessary to make an older worker's working life easier and safer.
- ✓ Ensure your school is compliant with specific legislation such as the Workplace (Health Safety and Welfare) Regulations (for appropriate seating and workstations) and the Health and Safety (Display Screen Equipment) Regulations (eye tests etc.)
- ✓ Identify problems and colleagues at risk. Talk to colleagues with specific problems and get them to suggest ideas and discuss possible solutions.
- ✓ Talk to any colleagues with specific disabilities about any difficulties they face in accessing the workplace. Tour the school with a colleague with impaired mobility to better understand the problems they encounter on a day to day basis.

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- ✓ Always make sure that any alterations are properly evaluated by the people who do the job, and be careful that a change introduced to solve one problem does not create difficulties elsewhere.

CONTACT THE NEU

NEU members in England requiring individual advice and support should in the first instance contact the NEU AdviceLine on 0345 811 811. Members in Wales can contact NEU Cymru on 029 2046 5000 and NEU Northern Ireland can be contacted at 028 9078 2020.

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