

NEU Guidance for Reps and Local Officers

INTRODUCTION

As an NEU representative or health and safety representative, you will be aware that the control of budgets and management of many areas of school activity is under the control of the school governing body. It is, therefore, extremely important that you understand the extent of your governing body's responsibilities for managing health, safety and welfare so that you can help seek to ensure that it not only acts in accordance with legal requirements but preferably goes beyond minimum requirements so that your school becomes a beacon of good practice for other schools to emulate.

This briefing describes the health and safety responsibilities of governors in different types of schools and to suggest ways in which the NEU and governors can work together to safeguard the mental health of teachers. There is separate NEU guidance for school leaders on preventing work related mental health conditions by tackling stress, available at www.neu.org.uk. Developing positive working relationships with both your head teacher and your governing body in this area, is the first step to improving teacher mental health in your school.

Appendix 1 contains a checklist containing key aspects of this guidance for you to give direct to your school's Governing Body, possibly via your staff governor, for consideration at a meeting of the full governing body.

What are governors' responsibilities where the local authority is the employer?

Although the local authority continues to have ultimate responsibility for health and safety matters in schools where it is the employer, governing bodies of such schools will also have some responsibility for these matters as "persons in control of premises" by virtue of Section 4 of the 1974 Health and Safety at Work etc Act. Governing bodies also control significant parts of their school's budget, which gives them strategic management responsibilities for health and safety.

Governing bodies of community schools, community special schools, voluntary controlled schools, maintained nursery schools and pupil referral units should be fully aware of this fact and of what they must do to ensure they also observe the law. They should, in particular, ensure compliance with health and safety standards and procedures in the areas for which they control funding, act as promptly as is reasonable with regard to risks and hazards encountered; and ensure proper attention to health and safety matters when setting their budgetary priorities.

In situations where a governing body is failing to act properly, local authorities can order any necessary work to be done and then charge the costs to the school's delegated budget.

What about where the local authority is not the employer?

For non-maintained schools, the employer varies and this has implications for the governing body in regards to their responsibilities. For stand-alone academies, foundation schools, trust schools, foundation special schools and voluntary aided schools the employer is the governing body, and therefore the governing body will have additional responsibilities. For independent schools the employer is the governing body or proprietor. In academies that are part of a chain, the employer will be the academy trust. In sixth form or FE colleges, the employer is the college corporation.

Where the governing body is the employer, they must ensure ‘so far as is reasonably practicable’ the health, safety and welfare at work of all its employees. This includes providing:

- a safe place of work;
- safe systems of work;
- adequate information, instruction and training about health and safety issues.

The employer must also ensure, so far as is reasonably practicable, that other people apart from employees who are at the workplace are not exposed to health and safety risks. In schools this of course includes pupils, as well as visitors to the premises.

In academies which are part of a chain, the chain’s board of trustees are responsible for the same core governance functions that are performed by the governing body in a maintained school. However, the majority of chain academies also have a local governing body which has many local governance functions delegated to it by the board of trustees, although the delegated functions are likely to differ between academies. There have been moves in recent years for some academy trusts to replace local governing bodies with ‘local management boards’ with fewer core members and without the requirement for teacher governors. **Such changes do not diminish the responsibility of academy trusts to meet their legal requirements in regards to their employees’ health and safety at work.**

Employees must take reasonable care for their own health and safety while at work and the health and safety of others who may be affected by their acts or omissions at work. They must co-operate with their employers in health and safety matters, carry out activities in accordance with training and instructions and inform the employer of any serious risk.

What do we mean by ensuring the health, safety and welfare of employees?

Governors have a clear duty of care as employers or as bodies with significant employer responsibilities.

It is important that the governing body as a whole does not adopt a narrow definition of what this means.

Health and safety is not just about preventing accidents and maintaining reasonable working temperatures, although these issues are of fundamental importance. Of equal importance, however, is the need to ensure that the mental well-being of staff is not damaged by being at work. Governing bodies are not involved in day-to-day management of staff. They do, however, have a role to play in terms of establishing the ethos of a school as an organisation which cares for its staff and pupils.

What can governing bodies do to promote good mental health among staff?

- one particular governor may choose to take a particular interest in this area – this could be a governor with knowledge of health and safety issues or with an interest in mental health issues. (Note that this does not imply that the governor concerned has legal responsibility for this area).
- encourage the head teacher to undertake a stress audit and consider how to respond to the findings. NEU guidance for school leaders is available at www.neu.org.uk.

- encourage the head teacher to work constructively with employer occupational health practitioners or well-being consultants, where these are readily available to schools.
- adopt a positive sickness absence management policy which promotes a caring strategy for staff returning to work after sick leave, including making 'reasonable adjustments', as required by the Equality Act 2010.
- monitor the head teacher's work/life balance; there is a duty on governing bodies in England and Wales to monitor the work/life balance of head teachers, contained in the STPCD.
- ensure that the school is managing staff in accordance with their conditions of employment as set out in the School Teachers' Pay and Conditions Document. This means as a minimum ensuring that everyone gets the PPA time to which they are entitled, that procedures are in place to ensure that teachers are not routinely undertaking clerical and administrative tasks and that they receive a lunch break of reasonable length.
- work constructively with management and union representatives on the safety committee established under the Safety Representatives and Safety Committees Regulations, for example in developing a work/life balance policy for staff. Whether or not the governing body is the employer it has a statutory duty under the Equality Act 2010 to assess the impact of its policies on gender equality. Improving work/life balance for all teachers is a key way of improving gender equality since it will help reduce the disadvantage faced by some women working within the teaching profession.
- a starting point would be to ask staff what problems they have with current working arrangements and what options would help them balance work and home life. Issues to be discussed could include how flexible working might be introduced, organisation of meetings, welfare arrangements, training and working at home during PPA time. Although these issues can be seen as difficult to address, there are many examples of successful flexible working arrangements in schools.

The NEU has produced a model work/life balance policy at www.neu.org.uk to assist employers in developing an effective policy in this area and to assist local officers in negotiations.

Good intentions on the part of the governing body could be demonstrated if governors encouraged the head teacher to:

- suggest that staff go home shortly after the end of the afternoon session at least once a week without feeling guilty; and
- suggest that staff may wish to leave the premises for at least 2 lunch breaks every week. This helps to reinforce the idea that staff are entitled to a complete break at lunchtime, free from interruption.

How can I improve awareness of mental health issues among governors at my school?

You could ask your teacher governor to raise the issue at a meeting of the governing body. The NEU has published several guidance documents at www.neu.org.uk which it would be helpful for governors to read and discuss.

'Tackling Stress' – this is a detailed analysis of the extent and impact of stress in schools, together with advice on how to address the problem.

'Preventing Work-Related Mental Health Conditions by Tackling Stress – Guidance for School Leaders' – Although aimed at head teachers, much of this guidance is relevant to other persons/bodies with responsibility for health, safety and welfare. It includes a lot of information about tackling stress using the HSE Stress Management Standards, something about which all governing bodies should be aware.

'Keeping Happy and Healthy – Advice for NEU Members who experience Mental Health Conditions'. Although aimed principally at NEU members, this advice document includes information about the sorts of mental health conditions from which staff can suffer, sources of support and 'return to work plans', all of which would be appropriate for governing body consideration.

The TUC and HSE have also produced relevant guidance;

TUC - ['Representing and Supporting Members with Mental Health Problems at Work'](#)

TUC - ['Work and Wellbeing'](#)

HSE - ['Line Managers Resource: A practical guide to managing and supporting people with mental health problems in the workplace'](#)

What about Action Short of Strike Action (ASOS)?

The NUT's Action Short of Strike Action (ASOS) programme secured significant changes for many teachers. Changes to working practices secured through ASOS in the past should be seen as permanent, not temporary.

The NEU has not carried out a national ballot on ASOS, so members wishing to take any new industrial action will need the support of a new industrial action ballot which would cover all NEU members including former ATL and NUT members.

Where teachers have previously stopped undertaking particular activities as part of ASOS, this should be regarded as a permanent change in working practices not as "ongoing action". Changes can continue irrespective of the lapsing of the national ballot as long as members are not still regularly asked to undertake work which they then refuse each time. A further ballot can and should be organised if managers issue fresh instructions to teachers to undertake the activities in question.

The NEU's previous guidance for members on ASOS has been updated and replaced with a new document called ['Tackling workload together'](#).

How can I persuade my school's governing body to act on NEU advice?

The best arguments to deploy are those which focus upon staff as being a school's most important resource.

People who experience wellbeing in the workplace perform well and are therefore more effective in their roles. Schools with large numbers of stressed, demoralised and anxious staff are not able to function efficiently. The educational experience of young people depends upon the effectiveness of teachers and support staff and their effectiveness depends upon their wellbeing. Acting to reduce levels of stress within your school will lead to less short and long-term sick leave, leading to less money spent on supply cover, which will, in turn, reduce pressures on other colleagues as well as benefiting pupils. It will also make it easier for disabled teachers to stay in the profession when they develop impairments, or when impairments change.

What if the governing body fails to act?

Guidance to Health and Safety Executive (HSE) inspectors, who are responsible for enforcing health and safety standards in schools, emphasises that the education sector has one of the highest incidences of work-related stress and that the priority should be to ensure that duty holders (local authorities, governing bodies and head teachers) are undertaking risk assessments and implementing risk control strategies as follows:

1. primary interventions (organisational strategies for reducing exposure to stressors at work);
2. secondary interventions, (including stress management training);
3. tertiary interventions (such as employee assistance programmes).

Inspectors may consider investigating complaints where there is evidence that a number of staff are experiencing work-related stress or stress-related ill health.

If a school fails to respond to HSE advice, has not undertaken a suitable and sufficient risk assessment for work-related stress and shows no evidence of having plans to do so, enforcement action may be taken in the form of an improvement notice.

In 2014, the HSE launched a new system for Health and Safety representatives to report serious concerns when other formal processes have failed to result in action and resolution. The '[Concerns and Advice Form for Safety Representatives](#)' can be submitted to the HSE by Health and Safety representatives.

However, before doing so the representative should inform their NEU Health and Safety Adviser or a paid union official of their concern. Any action taken by the HSE would of course be in addition to any action that the NEU might decide to take to protect its members.



NEU Checklist for Governing Bodies on How to Improve Staff Mental Health

1. **Be aware of your responsibilities as a governing body for staff health, safety and welfare**

Although the local authority/academy trust continues to have ultimate responsibility for health and safety matters in schools where it is the employer, as the governing body you will also have some responsibility for these matters as “persons in control of premises”, by virtue of Section 4 of the 1974 Health and Safety at Work etc Act.

In practice this means ensuring compliance with local authority health and safety standards and procedures and ensuring proper attention to health and safety matters when setting your budgetary priorities. Although you are not obliged to follow the exact advice of the local authority, it is wise to do so. If the law is being broken, the local authority has the right to step in to rectify the situation and, if necessary, charge the school’s delegated budget.

In stand-alone academies, foundation schools, trust schools and voluntary aided schools, as the governing body you are the employer and **must** ensure:

- a safe place of work;
- safe systems of work;
- adequate information, instruction and training about health and safety issues.

2. **Adopt a broad definition of health, safety and welfare**

It is important that the governing body as a whole, as well as individual governors with health and safety specialisms, adopts a broad definition of what this means. Health and safety is not just about preventing accidents and maintaining reasonable working temperatures, although these issues are of fundamental importance.

Of equal importance, however, is the need to ensure that the mental well-being of staff is not damaged by being at work. Although as governors you are not involved in day-to-day management of staff, you do, however, have a role to play in terms of establishing the ethos of a school as an organisation which cares for its staff and pupils.

3. **Consider the following suggestions for promoting good mental health among staff**

- Consider whether one particular governor is prepared to take a specific interest in this area – this could be a governor with knowledge of health and safety issues or one with an interest in mental health issues. (Note that this does not imply that the governor concerned has any legal responsibilities in this area.)

- Encourage the head teacher to undertake a stress audit, consider the findings at a meeting of the governing body and then recommend appropriate action.
- Encourage the head teacher to work constructively with employer occupational health practitioners or wellbeing consultants, where these are readily available to schools.
- Adopt a positive sickness absence management policy which promotes a caring attitude to staff returning to work after sick leave, including making reasonable adjustments as required by the Equality Act 2010.
- Monitor your head teacher's work/life balance. (There is a duty on governing bodies in England and Wales to monitor the work/life balance of head teachers, contained in the STPCD).
- Ensure that the school is managing staff in accordance with their conditions of employment, as set out in the School Teachers' Pay and Conditions Document. This means as a minimum establishing:
 - that all teachers get the PPA time to which they are entitled;
 - that procedures are in place to ensure that teachers are not routinely undertaking clerical and administrative tasks;
 - and that they receive a lunch break of reasonable length.
- Work constructively with management and union representatives on the Safety Committee established under the Safety Representatives and Safety Committees Regulations, for example in developing a work/life balance policy for staff. Whether or not you are the employer, you have a statutory duty under the Equality Act 2010 to assess the impact of your policies on gender equality. Improving work/life balance for all teachers is a key way of improving gender equality since it will help reduce the disadvantage faced by women working within the teaching profession. A starting point would be to ask staff what problems they have with current working arrangements and what options would help them balance work and home life. Issues to be discussed could include how flexible working might be introduced, the organisation of meetings, welfare arrangements, training and working at home during PPA time. Although these may be difficult issues for schools to address, there are many examples of successful flexible working arrangements in schools.

The NEU has produced a model work-life balance policy at www.neu.org.uk. Intentions on the part of your governing body could be demonstrated if you encouraged your head teacher to:

- Suggest that staff go home shortly after the end of the afternoon session at least once a week without feeling guilty; and
- Suggest that staff may wish to leave the premises for at least 2 lunch breaks every week. This helps to reinforce the idea that staff are entitled to a complete break at lunchtime, free from interruption.

4. **Reasons why governing bodies should act on NEU advice:**

- Staff are a school's most important resource
- People who experience wellbeing in the workplace perform well and are more effective in their roles
- Schools with large numbers of stressed, demoralised and anxious staff are not able to function effectively
- The educational experience of young people depends upon the effectiveness of teachers and support staff and their effectiveness depends upon their wellbeing
- Acting to reduce levels of stress within your school will lead to less short and long term sick leave, leading to less money spent on supply cover, which will, in turn, reduce pressures on other colleagues, as well as benefitting pupils.

5. **Consequences of failure to act**

Guidance to Health and Safety Executive (HSE) inspectors, who are responsible for enforcing health and safety standards in schools, emphasises that the education sector has one of the highest incidences of work-related stress and that the priority should be to ensure that duty holders (employers, governing bodies and head teachers) are undertaking risk assessments and implementing risk control strategies.

Inspectors may consider investigating complaints where there is evidence that a number of staff are experiencing work-related stress or stress-related ill health.

If a school fails to respond to HSE advice, has not undertaken a suitable and sufficient risk assessment for work-related stress and shows no evidence of having plans to do so, enforcement action may be taken in the form of an improvement notice.

Better to be safe than sorry – act now!