



## **Accidents and Injuries NEU guidance for members, reps and local officers**

This briefing sets out advice on the requirements for reporting accidents and injuries which happen in schools and on supporting NEU members in casework arising out of accidents and injuries.

### **The importance of reporting accidents and injuries**

Accidents and injuries in schools need to be taken seriously. Health and Safety Executive (HSE) statistics for 2015-16 show that there were 1,668 major injuries to teachers and other employees in schools, 2,701 injuries that resulted in seven or more days absence and one fatality.

Ensuring that accidents and injuries are reported, recorded and investigated is important for a number of reasons. It can help prevent future accidents by raising awareness of problems and making sure they are investigated. It also greatly helps the NEU in pursuing claims for damages on behalf of members.

The following guidance looks firstly at the general principles which should be followed in making sure accidents and injuries are reported to the employer and recorded in an accident book at the workplace. It also looks at other steps which should be taken to support NEU members who have suffered injuries in order to make sure they are fully protected, and on the benefits which may be available in cases of injury. Finally, it looks at the specific legal provisions under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013, which require employers to report certain kinds of serious accidents and injuries to the HSE.

### **Reporting accidents and injuries at the workplace**

#### **What should be reported?**

All accidents and injuries should be reported. No matter how trivial you consider an injury to be, you must ensure that it is reported and recorded within school at the time it happens. Injuries which seem trivial at the time can have longer term serious consequences and the existence of a record can, as mentioned above, subsequently be very important in securing compensation.

Employers are required under the Social Security (Claims and Payments) Regulations 1979 to keep a record of all accidents at premises where more than ten people are employed. Anyone injured at work is required to tell the employer and record details in an accident book, including the answer to the question 'how did the accident happen?'. The employer is required to investigate and enter this in the accident book if they find anything that differs from the entry made by the worker. These regulations are intended to ensure a record is available in case there is a claim for compensation.



Whatever its size, a school should have an accident report book in which all accidents and injuries (including those due to assaults) should be recorded. Every member of staff should know how to complete it and where to go to do so. NEU safety representatives are entitled to inspect the accident book to check that proper records are being kept.

In response to concerns from some quarters that the right of safety representatives to inspect accident books could amount to a breach of the Data Protection Act 2018, the HSE issued a revised accident book with a tick-box indicating that the injured worker agrees to their personal information being given to the safety representative. It should be noted that even where such agreement has not been given, employers must still give the information to safety representatives, but should conceal the individual's identity and details. This situation remains unchanged following the introduction of the General Data Protection Regulation (GDPR) in 2018.

Assaults on teachers, both verbal and physical, should be reported and recorded in the same way as accidents. 'Near miss' incidents which do not lead to injury should also be reported. For example, if a tile falls from the roof in a place where it might have injured a member of staff or a child throws a chair at a teacher but misses, this should be reported and recorded in addition to any other appropriate action taken.

### **What details should be kept?**

Details should be kept of:

- the date and time of the accident or injury
- the name of the person and nature of the injury
- the place where the incident took place
- a brief description of the circumstances including identification of the work or activity being undertaken at the time of the incident.

### **Who should investigate?**

Employers should investigate the causes of all accidents and injuries reported to them and take action to remedy the situation so that it does not recur. This ensures that they are fulfilling their legal duty to take steps to safeguard the health, safety and welfare at work of their employees and others on the premises.

Trade union safety representatives also have the legal right to undertake an inspection in the event of an accident. If there is an NEU safety representative at your school, you should report the incident to them.

If you are a NEU safety representative, provided that it is safe for an inspection to be undertaken, you are entitled to carry out an immediate inspection of the part of the workplace concerned (with any facilities and assistance from management that they might reasonably require). You may also note the names of witnesses and take statements from them. In such situations, you are entitled to be released from your other duties to undertake the investigation. Some witnesses may prefer to talk away from the



workplace. When questioning witnesses it is preferable to ask open questions such as 'can you tell me what happened?'

It is important to ensure that the injured employee has received medical attention. Make sure that photographs of injuries are taken; many doctors will do this but if not make sure that photographic evidence is taken.

Taking photographs, making sketches and taking measurements at the scene of the incident can be vital in establishing the facts. Where the incident has involved furniture or equipment, photographs of broken or failed items are important. Also photograph and record any items that should not ordinarily be in the environment as these could have contributed to the incident.

All the above steps will be of great help if you or a colleague needs to seek damages or has problems with industrial injury benefit or occupational sick pay claims, especially as the Department for Work and Pensions (DWP) no longer keeps a log of injuries suffered at work before determining whether an accident counts as an industrial injury.

Most importantly members need to seek advice as soon as possible, from the NEU Adviceline in England, NEU Cymru or NEU Northern Ireland (details below). They will provide advice and assistance.

Should the accident or injury be reported to the employer?

The NEU believes that schools should forward details of all accidents recorded on accident forms to their local authority or academy trust, and that these bodies should, in turn, collate this information and analyse it in order to identify patterns and trends and inform their accident prevention strategies. NEU safety representatives are entitled to such information.

## **Benefits for members injured at work**

### **Teachers' sick pay scheme**

The scheme provides specific benefits for teachers injured at work which are additional to the usual sick pay entitlements. In the case of absences due to accidents which have arisen in the course of a teacher's employment, a minimum of six calendar months absence on full pay is allowed, regardless of length of service, in addition to the teacher's standard entitlement to paid sick leave outlined in the Burgundy Book conditions of service. If the teacher is still not fit to return to work at the end of this six-month period, the employer can either extend the period or transfer the teacher to his/her standard sick pay entitlement under the Burgundy Book scheme.

### **Statutory sick pay (SSP)**

SSP is payable to any employee for a maximum period of 28 weeks in any spell of sickness absence. Where members are receiving full sick pay, SSP will form part of that



sick pay. Where members move on to half sick pay, SSP will be paid on top of half pay until the period of sickness absence reaches 28 weeks. Following this, members will be entitled to claim incapacity benefit.

SSP is most relevant to teachers in their first years of service, whose entitlements under the Burgundy Book scheme and to other benefits will be limited but who may be entitled to receive SSP for the full 28 weeks.

### **Employment and support allowance (ESA)**

If you have exhausted your statutory sick pay entitlement but are still unfit to return to work, you may be eligible for ESA.

You may be able to claim this if any of the following apply to you:

- your SSP has ended, or you are not eligible for it
- you are self-employed or unemployed and not claiming job seekers allowance
- you have been getting statutory maternity pay (SMP) and have not gone back to work for your employer because you have an illness or disability which affects your ability to work
- you are under state pension age.

You must also either:

- have had an illness or disability which affects your ability to work for at least four days in a row (including weekends and public holidays)
- be unable to work for two or more days out of seven consecutive days
- be receiving special medical treatment.

More information is available at: [gov.uk/employment-support-allowance](http://gov.uk/employment-support-allowance)

### **Industrial injuries disablement benefit**

The industrial injuries benefit scheme provides compensation through state benefits to claimants who are able to show that they have been injured as a result of an accident at work or have contracted an industrial disease. Industrial disablement benefit is available whether or not the claimant is at work and is payable to anyone who has suffered loss of physical or mental faculty as the result of an industrial injury or disease provided that the disability is assessed at more than 14 per cent.

In the case of an accident, claimants make a claim nine weeks after the accident if they are still disabled at that point. In the case of an industrial disease, a claim can be made straight away. In any event, claims for disablement benefit should be made within six months of the accident since the benefit is actually payable three months after the accident and cannot be backdated more than three months unless there is a very good reason for a late claim.

In order to claim industrial injuries disablement benefit, you need to complete form BI 100 for an industrial disease and B1 100A for an accident at work. These forms can be



obtained from your local Jobcentre Plus office, or online at [gov.uk/industrial-injuries-disablement-benefit/how-to-claim](http://gov.uk/industrial-injuries-disablement-benefit/how-to-claim)

### **Constant attendance allowance**

This payment is made when someone's occupational injuries have resulted in 100 per cent disablement and, as a result, they require constant care and attention. The rate at which it is paid depends upon a doctor's assessment of the claimant's needs. The claimant must be claiming either industrial injuries disablement benefit or a war disablement pension.

### **Exceptionally severe disablement allowance**

Those in receipt of the highest two rates of the constant attendance allowance and who require permanent care and attention may also be able to claim the exceptionally severe disablement allowance.

### **Suing for damages**

The NEU provides a professional legal casework service to members injured at work and obtains millions of pounds in compensation each year in such cases. Recent cases have included compensation for matters such as injuries due to assaults, injuries caused by defective equipment and injuries caused by lifting and handling, as well as the usual compensation for injuries caused by slipping, tripping and falling. Strict time limits apply, however, and advice should be sought promptly.

### **Ill health retirement**

An overview of the ill health retirement provisions of the Teachers' Superannuation Scheme has been set out at Appendix 1. Further information on these provisions is available on request from NEU Adviceline (England), NEU Cymru or NEU Northern Ireland (details below).

### **Reporting accidents and injuries to the HSE**

Advice for schools on the RIDDOR requirements on employers to report accidents and injuries to the HSE is set out in the HSE information sheet, Reporting School Accidents available on the internet at: [hse.gov.uk/pubns/edis1.pdf](http://hse.gov.uk/pubns/edis1.pdf)

RIDDOR requires that employers must inform the HSE of the following:

- all accidents to employees resulting in deaths or 'specified injuries'<sup>1</sup> and all accidents which result in an employee being off work due to injuries for more than seven days (referred to as 'over-seven-day injuries')
- all accidents to non-employees which result in them being killed or taken to hospital and which are connected with work.

Employers must also keep records of occupational injuries that result in a worker being away from work for more than three consecutive days.



The definition of accidents includes assaults so that injuries resulting from assaults are also reportable.

The responsibility for making reports to the HSE rests with employers. The vast majority of RIDDOR reports (with the exception of fatal and specified incidents) must be reported via the HSE's on-line system. Employers are also required to keep records of all accidents or injuries reported to the HSE.

If local authorities have sent guidance to schools on how to report accidents and injuries, including the HSE forms which must be used, school managers can report these directly to the HSE and send a copy to the local authority. If no such guidance has been sent to schools, then the accident should just be reported by the school management to the local authority, or other employer, which is then responsible for making the official report to the HSE.

RIDDOR also requires that employers must inform the HSE of the following:

- any incidents of reportable work-related diseases
- any dangerous occurrences which do not result in a reportable injury but which clearly could have done - see [hse.gov.uk/riddor/what-must-i-report.htm](https://www.hse.gov.uk/riddor/what-must-i-report.htm) for more details.

The list of reportable dangerous occurrences includes some which might happen in schools, including collapse of scaffolds, fires or explosions causing suspension of work for more than 24 hours, and accidental release of substances which may damage health.

The release of asbestos fibres into the air is an example of a dangerous occurrence. As well as reporting this to the HSE, staff who may have been affected should put details of any possible exposure in writing to their employer and their school, and keep their own copy. Affected staff should also visit their GP and have the exposure recorded on their medical records. In the event of any future claim for compensation, such evidence is of great importance.

### **Accidents and injuries to pupils, visitors and other non-employees**

Accidents and injuries to volunteer staff and visitors should be reported, recorded and investigated within the school in exactly the same way as incidents involving employees and pupils in order that safety standards are maintained. Safety representatives have the right to investigate in such circumstances since it may be employees who are affected in any future incidents.

As noted above, some incidents involving non-employees must be reported to the HSE. Playground accidents due to collisions, slips and falls are not reportable unless they arise out of, or in connection with, work - for example, the condition of the premises or equipment, or the level of supervision. If, however, someone is killed or taken to hospital



and the accident was caused by the condition of the premises, or lack of supervision, then the accident must be reported to the HSE without delay.

### **How to report an incident to the HSE**

The simplest ways to report an incident to the HSE are:

- by telephone, on 0345 300 9923 (for fatal and specified incidents only)
- online, at [hse.gov.uk/riddor/index.htm](http://hse.gov.uk/riddor/index.htm) (for all other incidents).

### **Action points for safety reps**

Make sure that:

- proper records of accidents and injuries are kept by your employer as required
- members involved in accidents or assaults receive advice and assistance as set out above.

## **Appendix 1 Notes on ill health early retirement**

The teachers' pension scheme has a two-tier benefits system for people who meet the overall ill health retirement criterion. There is a distinction between the benefits you can get depending on whether you are viewed as suffering from 'total incapacity' or 'partial incapacity'.

### **Total Incapacity**

This is the higher level of incapacity payment. To qualify for total incapacity benefit, you must be assessed as being permanently unable to teach. Teachers whose health is such that they will not be able to undertake employment except employment where the job weight is greatly below that of teaching will receive total incapacity benefit. For example, a teacher going on ill health retirement and is capable only of stacking shelves in a supermarket will therefore receive total incapacity benefit.

If you qualify for total incapacity benefit, your pensionable service will be enhanced by half your prospective service to your normal retirement date (60 for teachers who entered service on or before 31 December 2006, 65 for those who entered service from 1 January 2007). In the case of total incapacity benefit, there is no actuarial reduction to your pension for retiring early.

### **Example**

Teacher A is 30 years old, has a current salary of £25,000 and five years' service in the teachers' pension scheme when she becomes eligible for total incapacity benefit. Her normal retirement date is 60, so her pension and lump sum would be the following:



Total reckonable service = 5 years + half service to retirement = 15 years (half of 30) = 20 years

Pension = 20 years x  $1/80$  x £25,000 = £6,250 a year

Lump sum = 20 years x  $3/80$  x £25,000 = £18,750

### **Partial incapacity**

Partial incapacity benefit is the lower level of incapacity payment. It would be awarded if you were classified as permanently unable to teach, but able to do other work.

If you only qualify for partial incapacity benefit, your pensionable service is not enhanced, so you receive your accrued service only. However there is no actuarial reduction for early payment. There would be no review of your pension should other work be undertaken.

### **Example**

Teacher B is 30 years old, has a current salary of £25,000 and five years' service in the teachers' pension scheme when she becomes eligible for total incapacity benefit. Her normal retirement date is 60, so her pension and lump sum would be the following:

Total reckonable service = 5 years

Pension = 5 years x  $1/80$  x £25,000 = £1,563 a year

Lump sum = 5 years x  $3/80$  x £25,000 = £4,688

### **Who can get total incapacity benefit?**

Total incapacity benefit can be awarded provided the member left service on grounds of incapacity and applies within six months of leaving either pensionable employment or ceasing the payment of combined contributions or reservist contributions.

You can also be considered for total incapacity benefit if you apply while on sick leave, maternity leave, paternity or adoption leave, or on a career break which immediately followed a period of pensionable employment.

### **Deferred members**

If you are not in pensionable employment and do not meet the above criteria, only partial incapacity benefit can be awarded (i.e. no enhancement of benefits). However to qualify for partial incapacity benefit in this case, you must meet the criteria for total incapacity benefit.

### **How do I apply for ill health early retirement?**

If you are still employed you should get the two forms required for your application from your employer. One form is for you to complete with your employer, the other is for the medical evidence to support your application.

If you are no longer employed as a teacher you can download the forms from the Teachers' Pension Service website at: [teacherspensions.co.uk](http://teacherspensions.co.uk)

You and your employer's occupational health adviser, with your medical practitioner, need to provide the medical evidence and complete the application forms.



If you left pensionable employment within 12 months of submitting your application, the medical information sections of your application form must be completed by your ex-employer.

If you are considering making an application for ill-health retirement, make sure you contact the union before the application is submitted.

## **Appendix 2 NEU personal accident insurance**

This group insurance policy provides compensation in respect of accidental permanent bodily injury which shall, independently of any other cause, be the sole cause of any of the results A to D detailed below within two years of the event. The policy also covers loss of an internal organ, loss of hearing, loss of speech and accidental dental damage. The claim should be made, or notice of a claim given, as soon as possible after the event.

The benefit is available to all in-service members, student members and all members on union business.

### **Compensation**

Result		Compensation payable	
		On duty	Off duty
A	Death	£10,000	£2,500
B	Total and permanent loss of all sight in one or both eyes or hearing in one or both ears	£10,000	£2,500
C	Total loss by physical severance or total and permanent loss of use of one or both hands or feet	£10,000	£2,500
D	Total and permanent disablement from engaging in or attending to usual business	£10,000	£2,500

- The maximum payable for one event is £10,000.
- The policy includes benefits for the following: coma, paraplegia, quadriplegia, rehabilitation and dental injury.
- Death or injury which meets the criteria outlined above and which occurs on a journey undertaken in direct connection with the member's employment shall qualify for the higher rate of benefit. The journey between home and place of employment shall be deemed to be in the course of duty for the purposes of this policy.

### **Exceptions**

This policy shall not apply to any result or event consequent upon:

- war, naval, military or air force service or operations against an enemy
- air travel other than as a passenger



- racing or time trials on wheels or horseback
- suicide or self-harm, criminal act or insanity.

### **Personal accident insurance: hospitalisation scheme**

The NEU has a collective policy on behalf of its members, which provides compensation if a member is injured as a result of an accident resulting in the member being treated as an in-patient in hospital for at least two consecutive days within one year of the accident.

This injury must be the sole cause of the hospitalisation.

This benefit is available to in-service members and student members.

Members on union business in any category of membership are covered.

Compensation payable

£50 per day (excess 24 hours) up to a maximum of 365 days.

### **How to claim**

Complete the claim form and return it to NEU (O&M department) including your hospital discharge certificate.

### **Exclusions**

The policy shall not apply to any event or result consequent upon:

- war, naval, military or air force service or operations against an enemy
- air travel other than as a passenger
- racing or time trials on wheels or horseback
- self-harm, criminal act or insanity.