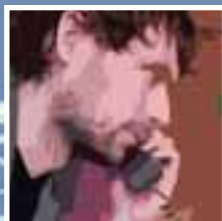


Workplace Representatives' Handbook

England



A message from the General Secretary



Dear Member

The NASUWT is the largest teachers' union in the UK, thanks to the determination and hard work of NASUWT Representatives.

The NASUWT is committed to the creation of fair, equal and healthy workplaces. As the NASUWT Representative, you play a crucial role in improving working conditions for all members of the school workforce and empowering members to play a full and active part in their union.

This handbook is a key resource for NASUWT Representatives on organising, terms and conditions, equalities, health and safety, and your trade union. This document signposts additional NASUWT resources, relevant legislation and other useful publications. It is important that you consult your Local Association Secretary or Regional Centre whenever you need advice and support.

In 2013, the NASUWT has an overwhelming mandate for taking action to Stand up for Standards. In doing so, the Union is defending both teachers' professionalism and terms and conditions secured previously over many years. By taking action to free teachers from the drivers of excessive workload and defending the status of the profession, members are attempting to ensure that they can focus on teaching and learning. As an NASUWT Representative, you will have a vital role to play in helping the NASUWT achieve those objectives.

I hope that you find this handbook useful in your work. It is designed as a resource for the Working Together Stage One course as well as a day-to-day reference manual for NASUWT Representatives. Marginal references provide links to further information and, when in doubt, you should always take advice from your Local Association Secretary or Regional Centre.

Materials published by the NASUWT are available to you, free of charge, when you return the FREEPOST registration form and publications request inserted in this handbook. To obtain NASUWT publications at other times, you can either visit the Union's website, www.nasuwf.org.uk, or contact: Despatch Team, NASUWT, Hillscourt Education Centre, Rose Hill, Rednal, Birmingham B45 8RS; Tel: 0121 453 6150; Fax: 0121 457 6208; E-mail: nasuwf@mail.nasuwf.org.uk.

Thank you for your work on behalf of members.

Best wishes.

A handwritten signature in cursive script that reads "Chris Keates".

Chris Keates
General Secretary

The information contained within this handbook is complemented by the following:

Health and Safety Representatives' Handbook
Casework Code of Practice
Local Association Handbook
Lifelong Learning Officers' Handbook

Contents

The role of the NASUWT Representative	7
Training	11
Organising in the school/college	14
Appointment of NASUWT Representatives	18
NASUWT Representatives' rights	19
Consultation and negotiation	20
Services for members	25
Accidents at Work	28
Allegations	29
Assaults	31
Budgets	33
Bullying	37
Capability	40
Class Size	44
Contract	45
Cover	51
Disciplinary Action	52
Disclosure and Barring Service	54
Educational Visits and Learning Outside the Classroom	59
Equal Opportunities	63
Equal Pay	67
Family Leave	68
Governing Bodies	69
Grievance	71
Induction	73
Inspections	74
Job Descriptions	76
Maternity, Paternity and Adoption Leave	77
Medical Matters	79
Meetings	80
Minibuses	81
National Curriculum	83
Pay Structure	86
Pensions	87
Performance Management	90
Recognition	92
Redundancy	93
Sick Pay and Sick Leave	96
Stress	98
Violent and Disruptive Behaviour	99
Working Time	101
Work/Life Balance	103
Workforce Remodelling – the National Agreement	105
Appendix 1 Model Agreement: Arrangements for Joint Consultation	106
Appendix 2 NASUWT Representative Incident Log	109

The role of the NASUWT Representative

NASUWT Representatives lead the Union in the workplace by:

Organising:

- building the Union team within the school (Representative; Deputy Representative; NASUWT Health and Safety Representative; Learning Representative; NASUWT Staff Governor; Workplace Contact);
- organising members to act collectively to support individuals facing difficulties and to campaign around workplace issues;
- recruiting teachers, including new teachers and student teachers on their work placements, so that the Union grows stronger;
- playing an active role within the Local Association;
- encouraging attendance at Union training courses to improve members' knowledge and skills.

Communicating:

- keeping members informed by circulating the NASUWT national and local information to members;
- holding regular and accessible meetings with members and informing the school management of the NASUWT policies and the collective view of members;
- keeping the Local Association informed of developments by maintaining regular contact with the Local Secretary, attending Local Association meetings to find out what is happening in other schools and sharing what is happening in their own;
- ensuring that all members of the school workforce are aware of the work of the Union through the prominent display of NASUWT materials;
- helping to ensure that the Union records are kept up to date;
- the NASUWT notice board can be a crucial way of communicating with both your members and school management. It is important that the full range of the Union's work for all its members is covered. This could include NASUWT reports to schools, health and safety information, training opportunities, equalities information, Local Association newsletters and conferences and events.

Representing:

- raising with management the concerns of members;
- advising and supporting individual members in the workplace on employment-related matters. NB. The law requires those representing members in grievance or disciplinary hearings to be accredited by the Union; see the Code of Practice on casework.

Developing good workplace relations:

The NASUWT Representative promotes positive, fair and equitable workplace relationships in their school or college by:

- effective representation of the members' collective voice;
- contributing to a working environment that values every member of the workforce;
- encouraging managers and employers to consult and negotiate.

Whenever possible, the NASUWT Representative defuses potential problems and discriminatory situations before they arise.

Be confident in your role and check with your Local Association Secretary if you are unsure about any course of action. Never advise a member to be in breach of contract. Only the National Action Committee of the National Executive can authorise industrial action. If members feel that a stand must be taken, contact your National Executive Member through the Local Association Secretary as early as possible.

Making use of your resources

Key resources for the NASUWT Representative include:

- the NASUWT Representatives' Handbook;
- national and local reports and updates;
- NASUWT advice and guidance;
- NASUWT policy statements, press releases, research and surveys;
- the NASUWT's website: www.nasuwt.org.uk.

Information is published for all members:

- *Teaching Today*, the magazine published by the NASUWT, is sent to members' home addresses regularly throughout the year. If a member is not receiving a copy, they may have changed address without telling the Union. Simply asking members whether they receive *Teaching Today* will help you update membership records;
- Local Association newsletters should be produced and distributed to schools. These cover local issues and matters relevant to, for example, the local authority (LA).

In addition, another source of information you may find useful is the Health and Safety Representatives Bulletin.

Keeping records

An essential function of the NASUWT Representative is to keep accurate records of significant incidents in the school. These should include:

- any complaint made to you by a union member;
- all incidents that may involve discrimination or prejudice;
- any incident of disruptive pupil behaviour reported to you (or of which you are aware);
- what is said in any meeting you attend as an NASUWT Representative;
- meetings you hold with members.

Records should always contain:

- the date;
- the names of those involved;
- an account of the event/incident/meeting (including any outcome);
- a note of any action/decision you have taken and any advice given.

Accurate records will help you solve problems. For example, you will be able to show exactly how many times, when, where and how a pupil has behaved in a disruptive way, or how many times the boiler has broken down.

Your records may become important in the future if matters are not solved at school level and if other NASUWT Representatives, such as the Local Association Secretary or the Regional Official, become involved.

As an NASUWT Representative, you should expect to be provided with a lockable drawer or filing cabinet to store confidential and sensitive information such as members' statements and incidents.

Overleaf is an example of an Incident Log that you might adapt for your own use. (A blank copy is in Appendix 2.)

NASUWT Representative Incident Log	
Date: 25 January 2013	
Nature of incident: Staff harassment	
Identity of those involved: M Windridge plus pupil, JT, in Year 11	
<p>Report:</p> <p>Martha Windridge received an e-mail to her school account at 9.10am from an e-mail address – ‘sue12132@hotmail.com’.</p> <p>The e-mail was abusive and called her ‘crap’ and a ‘retard who isn’t fit to be a teacher’.</p> <p>Later, during the lunch break, around 12.40pm, a group of girls were laughing and shouting on the field. Martha overheard them talking loudly about ‘cripples’ and she heard JT shout ‘there’s the retard!’</p> <p>Martha is very upset and feels the e-mail must have been sent by one of this group of pupils, probably pupil JT.</p> <p>Action taken:</p> <p>In the afternoon, visited the deputy headteacher responsible for staffing issues along with Martha and informed him of the incident. He is going to investigate where the e-mail came from.</p> <p>Have contacted Local Secretary for further advice.</p>	
Signed: Joe Dornan	Date: 26 January 2013

Training

Elected NASUWT Representatives all over the UK work hard to give teachers a voice in the decisions that affect them and in standing up against injustice, unfairness and exploitation, wherever this occurs.

Sensible employers welcome the positive contribution to good industrial relations made by well-informed, skilful trade union representatives. The Coalition Government endorses this view by granting representatives the right to time off work with pay to attend appropriate training courses organised by their trade union. The NASUWT plays its part by providing free, high quality education and training courses for all of its Representatives. No other teachers' union provides such a wide range of training opportunities.

Training is progressive, with stage one and two training focused on school and college activities. Stages three and four training are aimed at those Representatives involved in representing members outside their own workplace or involved in complex casework or advocacy.

The NASUWT also provides training opportunities for members who may not hold elected office and you are encouraged to publicise these and involve your colleagues in the Union's training and education programme. Full details and the facility to book online are available on the NASUWT website: www.nasuwt.org.uk.

Professional seminars on a variety of topics and other training events are available at venues throughout the UK. Travel expenses and other charges for members can often be claimed from school in-service training (INSET) budgets.

Courses for NASUWT Representatives

REPRESENTATIVES (STAGE 1): WORKING TOGETHER

This two-day course equips NASUWT Representatives with the essential knowledge, skills and confidence needed to carry out the role of trade union representative in a school or college setting. This is an ESSENTIAL foundation course for every NASUWT Representative. Following successful completion of the course, the NASUWT will accredit participants as 'Workplace Representatives'.

REPRESENTATIVES (STAGE 1): FOR INDEPENDENT AND ACADEMY SCHOOL REPRESENTATIVES

This two-day course is tailored especially for NASUWT Representatives working in independent schools and academies. It equips NASUWT Representatives with the core knowledge and skills needed to carry out the role of trade union representative in these settings. This is a perfect opportunity to meet other colleagues working in similar circumstances and to discuss common problems with skilled tutors. This is an ESSENTIAL foundation course for every NASUWT Representative in an independent setting or an academy. Following successful completion of the course, the NASUWT will accredit participants as 'Workplace Representatives'.

REPRESENTATIVES (STAGE 1): FOR SIXTH-FORM COLLEGES

This two-day course is tailored especially for NASUWT Representatives working in sixth-form colleges. It equips NASUWT Representatives with the essential knowledge and skills needed to carry out the role of trade union representative in these settings. This is a perfect opportunity to meet other colleagues working in similar circumstances and to discuss common problems with skilled tutors. This is an ESSENTIAL foundation course for every NASUWT Representative in an independent setting or an academy. Following successful

completion of the course, the NASUWT will accredit participants as ‘Workplace Representatives’.

REPRESENTATIVES (STAGE 2): WORKING TOGETHER

This is a course for NASUWT Representatives in all educational settings who have completed Working Together Stage 1.

Experienced trade union tutors help participants acquire a deeper understanding of the issues facing teachers, particularly the context of individual and collective issues for NASUWT members. The course helps participants develop negotiating, casework handling and organising skills needed to tackle issues in the modern workplace.

REPRESENTATIVES (STAGE 3): NEGOTIATION

Negotiation is a skill central to the role of any trade union representative. This activity-based course teaches the theory and practice of negotiation in a structured and practical way. Research into successful negotiating strategies is drawn upon and will inform discussions and activities.

The course allows NASUWT members to practise and develop negotiating skills in a safe and supportive environment.

Those who have completed Working Together (Stage 2), or who are actively engaged in negotiation at either Local Association or Federation level, are eligible to apply for a place on these courses. The course usually needs a minimum of six participants.

REPRESENTATIVES (STAGE 3): CASEWORK

Dealing with members’ problems can be challenging. This course focuses on skills essential in successfully handling the more complex problems that come the way of Local Association Caseworkers. The course teaches how to deal with problems in a systematic manner; how to interview members; how to research documents; and how to assemble a ‘case’. There are opportunities to discuss issues with experienced tutors.

Upon successful completion of this course, participants will be accredited by the Union as a ‘Casework Representative’. After achieving this accreditation, it is important that Casework Representatives keep their skills and knowledge updated through attending relevant annual Casework Briefings.

Those who have completed Working Together (Stage 2) are eligible to apply for a place on this course. The course usually needs at least six participants to run.

REPRESENTATIVES (STAGE 4): CASEWORK

This is a course for experienced NASUWT caseworkers. Using a mixture of simulation, presentation and discussion, participants deal with a complex and serious issue on behalf of a fictional member. In the process, caseworkers examine the nature of difficult decisions that have to be made; how to use procedures effectively; and how to access the Union’s legal services appropriately.

Applicants will have already completed Casework (Stage 3) and have experience of handling members’ cases. The course usually needs at least three participants to run and is currently being revised to take account of change to the law, school procedures and the changing educational landscape. Please keep an eye on the NASUWT website for the new course being advertised.

ADVOCACY (STAGE 4)

After developing the skills and competencies necessary to represent a member, the member's case may have to be presented and argued before a third party, such as a governing body.

This course teaches the practical skills of organising and presenting a case orally; how best to argue the case; and how to question witnesses.

Normally, applicants will be expected to have completed the Casework (Stage 3) course. The course usually needs at least four participants to run.

The structure of the NASUWT training programme

The NASUWT programme of training courses is structured in levels. There are introductory courses for members and Representatives, courses aimed at school and college-based Representatives and higher level courses for those who are more experienced, working across local authorities, or local officers. Representatives will normally complete a course at each stage before progressing.

Representatives can undertake the following courses:

- Representatives (Stage 1): Working Together
- Representatives (Stage 1): For Independent and Academy School Representatives
- Representatives (Stage 1): For Sixth-form Colleges
- Representatives (Stage 2): Working Together
- Representatives (Stage 3): Negotiation
- Representatives (Stage 3): Casework
- Representatives (Stage 4): Casework
- Advocacy (Stage 4)

There is also an Organising in the Local Association course.

Health and Safety Representatives can undertake the following courses:

- Health and Safety Representatives (Stage 1)
- Health and Safety Representatives (Stage 2)
- Health and Safety Organising (Stage 3)

Learning Representatives can undertake the following courses:

- Learning Representatives (Stage 1)
- Learning Representatives (Stage 2)

Additionally, other courses available include Behaviour Management, Working Assertively, Development courses for members in under-represented groups, Dignity at Work, along with a range of courses for Local Officers, such as Redundancy. There are courses for Equality Officers, Treasurers, Staff Governors and various ICT courses which can be found via the NASUWT website www.nasuwt.org.uk.

Organising in the school/college

Organising for the NASUWT is about emphasising the main ideas and purpose of our trade union. Workplace organising is a key activity for any NASUWT Representative.

The NASUWT sees members as:

- part of a collective, social organisation – members are the Union;
- best able to identify issues of concern in the workplace;
- having ownership of those issues;
- taking responsibility for and, with the help of others, resolving the issues;
- identifying with and participating in the Union;
- being proud of their Union;
- realising that they are the Union.

The NASUWT wants activists and representatives to be able to:

- closely identify with members;
- work in partnership with members;
- reflect members' concerns;
- where appropriate, agitate and articulate concerns of members both to members and then to management;
- resist the temptation to take on all responsibility for resolving members' problems;
- respond to the question "What is the Union going to do about this?" with "You are the Union. With our help, what are you going to do about this?"

By getting the relationship right between members and activists we hope to:

- get more members participating in the Union by taking responsibility for their own workplace issues;
- encourage new activists by letting them know they are not expected to take complete responsibility for all members;
- grow the Union in terms of activists and members.

In this context, the role of the NASUWT Representative should be to:

Build

- From putting material on the notice board to speaking with colleagues about joining the Union, you'll find it easier when you share the load. Ask other NASUWT members to help you do your job. Build a team who can help you do the things that need doing.
- Build the membership by finding someone willing to take responsibility for helping with recruitment. They could approach new teachers when they join the workplace, speak to student teachers on placements and speak to colleagues that they feel might want to join the Union.
- 'Mapping' is important. If you are in a big workplace you might want to find a member in each department or site who can help keep track on members' details and report the information back. Alternatively, you might want to speak to members before or after each term to report changes such as moves, retirement, changes of name etc. to the Local Association Secretary. There are many ways to map, but it is important to keep accurate records so that the Union can function most effectively.
- Take the time to build relationships with other unions and senior leaders. Being able to approach individuals to form alliances or deal with informal issues is important. If a colleague is confident with this type of activity then talk about how you might be able to build these relationships together.

Engage

- Get together with members and talk generally about issues they face, the Union, or education in the news. Feeling that the Union is accountable and listening is important for members.
- Regular, formal meetings are necessary too. Give members the opportunity to engage with each other and discuss issues that they might have. Briefing them on Union news is vital to ensure they can effect change through the Union's democratic structures.
- It is essential that your school is represented at Local Association meetings. These meetings keep your workplace engaged with the wider NASUWT community. Your Local Association Secretary can help you and give advice when you need it. If you cannot get to a Local Association meeting yourself, ask other members in your school to do so.
- Engage effectively with school management and report regularly back to NASUWT members on all discussions/developments. Ensure members are kept apprised of wider issues affecting their terms and conditions.

Inform

- Organise ways to pass on information to members within the school. If members share different lunch times or are in different departments, delegate responsibility to pass 'down' information. Develop a system in which members can feed back on news, so you can decide if a members' meeting is necessary to address any recurring concerns.
- Do your best to make sure that Union notice boards are up to date and that you are publicising the material that the Union sends out. If another member is willing to take on this responsibility, make arrangements for them to join the team.

Empower

- Where you feel it is possible to 'group' members' concerns, encourage them to get together and suggest alternatives and encourage them to act together as the Union.
- Have conversations with members about how they can contribute to the direction of the Union at work. Do not be tempted to 'service' members and try to meet their needs yourself. Organise them, by delegating responsibility so that they can effect their own change.
- The NASUWT wants all minority and under-represented groups within the Union to participate. Women, disabled, lesbian, gay, bisexual and trans (LGBT), black and minority ethnic (BME) and young members should be encouraged and if there are issues at work, or within education that specifically relate to a minority group, we should empower them to make changes by engaging them within the Union's structure.
- Identify training needs of members, whether union training or continuing professional development (CPD), and make representations on their behalf.

REALISM

Realistically, organising is about increasing the number of activists and participating members to as high a percentage as is practicable. Activists/representatives operating in an organising environment will be more proactive. We cannot achieve this type of organising culture overnight, but the NASUWT has committed itself to making the journey.

Useful recruitment resources produced by the NASUWT can be found on the NASUWT website at www.nasuwt.org.uk.

Recruitment

Who should you recruit?

Existing colleagues

The most common reason given for not being in a trade union is ‘nobody asked me’.

There has never been a more important time to recruit to the NASUWT, the largest teachers’ union in the UK. Since the election in 2010 of the Coalition Government, the education system, alongside all other public services, has been subject to cuts and numerous proposals for reform. The expansion of the academy schools programme, alongside the introduction of new free schools, raises issues of concern for the NASUWT, in particular that academies and free schools do not have to adhere to national terms and conditions for teachers. It is vitally important that teachers in academies and free schools understand the importance of joining the NASUWT and that, although the Union is opposed to the opening out of the education service to the market through academies and free schools, the Union will offer members in those schools exactly the same support as members in state-maintained schools.

Newly appointed colleagues

NASUWT Representatives should not assume that a new member of staff is already a member of the NASUWT or any teacher trade union. NASUWT Representatives should ensure that new starters, including student teachers on their work-based placements, are welcomed and made aware that the NASUWT Representative is always available for help and support. This introduction can then be built on to discuss the benefits of NASUWT membership with these colleagues.

Newly qualified teachers

The National Union communicates regularly with all NASUWT student members during their final year leading to qualification and has a good success rate of converting them to newly qualified teacher membership.

NASUWT Representatives should not assume that all newly qualified teachers have already joined the NASUWT or any other teacher trade union. In addition to discussing why the NASUWT is the largest teachers’ union in the UK, NASUWT Representatives should ensure that they are informing newly qualified teachers of the most current NASUWT newly qualified teacher subscription offers, as well as the specific newly qualified teacher-focused seminars that the NASUWT runs every year.

Standard FREE newly qualified teacher membership offer

The NASUWT offers full membership FREE for the first term of teaching followed by a 50% reduction on the next two years’ subscription.

Enhanced newly qualified teacher membership offer

All newly qualified teacher members who agree to pay the second year of subscription by direct debit will receive FREE NASUWT membership for the first term of teaching plus the following calendar year, followed by a 50% reduction on the second subscription year.

Free full newly qualified teacher membership can commence in the months leading up to the date of qualification and provides cover for any supply work during this time.

Initial teacher training students

Initial teacher training (ITT) students receive legal and professional cover and other membership benefits completely free during their training. The NASUWT has close links with the National Union of Students (NUS). The NUS will deal with any education-related casework whilst the NASUWT will deal with any school-based issues that occur whilst on teaching practice. Many ITT students are recruited at the beginning of their course whilst at

university; however, NASUWT Representatives should always check with those on teaching placement that they are receiving the benefits of FREE NASUWT student membership. Some ITT students, for example distance learning students, may not have been approached at university.

Graduate Teacher Programmes/Graduate and Registered Teacher Programmes

There is an increase in work-based routes to Qualified Teacher Status (QTS). These potential members are based in schools and have not been exposed to any of the traditional ITT recruitment events that the NASUWT attends. It is therefore vital that NASUWT Representatives approach these members in order to recruit them to the Union. These members receive the benefits of full membership completely free of charge during the time that they are training and then qualify for the same subscription offers as all other newly qualified teachers.

- Full subscriptions can be paid monthly, quarterly or annually by direct debit or by credit card by simply telephoning the Membership Team on 0121 457 6211 (see the NASUWT website, www.nasuwt.org.uk, for current subscription rates).
- Members paying subscription by direct debit get extra benefits.
- Part-time teachers on 60% contracts or less pay half the subscription and those on 30% or less pay only 25%. Both concessions enjoy full membership benefits.
- Lapsed members returning to the NASUWT are required to pay a minimal administration fee and are not covered for the time during which they did not pay subscriptions.
- Tax relief is available on subscriptions. Contact your local tax office, quoting your National Insurance number or your Tax Reference Number. The Union's website has details of how to do this.

Useful recruitment resources produced by the NASUWT

- *About NASUWT.*
- *NASUWT Working for Teachers* leaflets.
- *Recruitment Pack* (version available for NASUWT Representatives and Local Association Secretaries) includes numerous resources to enable NASUWT Representatives to recruit new members as well as advice and guidance on how to overcome barriers to recruitment.
- *The NASUWT Notice Board Pack.*
- *Communicate to Recruit* (online resource) containing templates, logos and model letters.
- *Starting Out – a quick guide for new teachers.*
- *Finding Your First Teaching Post* (online resource).
- *A Voice in Every Workplace Pack* – a resource for Local Associations to assist in the organisation of members and the recruitment of new Representatives and contacts.
- Full member application form.
- Newly qualified teacher application form.
- Student application form.
- *Induction Planner* (available by request – free to members).

All the resources detailed above can be downloaded free of charge from the NASUWT website at www.nasuwt.org.uk.

It has never been easier to join the NASUWT either online at www.nasuwt.org.uk or by making one hassle-free phone call to 0121 457 6211.

Appointment of NASUWT Representatives

The NASUWT is a democratic organisation run by teachers elected by their colleagues to represent them. This is true from every NASUWT Representative to the National Executive Members and National Officers. Each year, usually in June/July, a meeting of members in the school should be called and nominations for school-based Union positions (NASUWT Representative, Health and Safety Representative and Learning Representative) requested. If there is more than one nomination for a position, a ballot should be held. Once elected, the NASUWT Representative should:

- inform the Local Association Secretary and Regional Centre;
- inform Headquarters by means of the election registration form included with this handbook. **This should be done each year;**
- inform the headteacher and request that all consultation on conditions of service issues be conducted through the Representative.

Every elected and registered NASUWT Representative will be issued with an official card valid for one academic year. This card accredits the Representative as the individual within the school entitled to speak collectively on behalf of NASUWT members.

The law requires additional accreditation for those representing members in disciplinary or grievance hearings on the advice of their Local Association Secretary. The NASUWT issues two levels of accreditation, which is gained by attending appropriate NASUWT training.

Upon completion of a Working Together (Stage 1) course, accreditation as an NASUWT Representative is issued and upon completion of a Casework (Stage 3) course, accreditation as a Casework Representative is issued.

Aim to elect a Deputy NASUWT Representative within your school.

NASUWT Representatives' rights

The NASUWT Representative has many rights. Some of these rights are covered by legislation and some are the result of agreements reached at national level between trade unions and employers. It may be the case that these rights have been improved upon in your area by local agreement, so you should check with your Local Association Secretary what arrangements are in place. Amongst the rights enjoyed by NASUWT Representatives are:

Statutory rights:

- the right not to be disciplined before discussions have taken place with a senior official of the Union;
- the right to time off with pay for training;
- the right to time off with pay for the performance of trade union duties;
- the right to information from the employer for the purposes of collective bargaining;
- the right to be consulted before changes to working conditions are introduced.

Agreed rights:

These are set out in the *Conditions of Service for School Teachers in England and Wales* (Burgundy Book) and apply to all LA schools and most foundation and voluntary-aided schools:

- the provision of lists of newly appointed teachers in the authority area and arrangements for communicating direct with the new teachers;
- the provision annually of lists of teachers employed in the LA schools;
- the right to notice board(s) with sufficient space for display purposes;
- the right of access to a telephone with reasonable privacy (the cost of calls on Union business can be reclaimed from the Local Association);
- the right of access to copying facilities (material costs should be reclaimed from the Local Association);
- the right to use suitable meeting rooms.

These rights are described in more detail elsewhere in this manual.

For further information:

Acas Code of Practice:

No 1: Disciplinary and grievance procedures;

No 2: Disclosure of information to trade unions for collective bargaining purposes;

No 3: Time off for trade union duties and activities.

Available from: www.acas.org.uk.

'Agreement on Facilities for Representatives of Recognised Teachers' Organisations':
Burgundy Book, Appendix 3.

Consultation and negotiation

School management must consult NASUWT Representatives before any changes are introduced. If the proposed changes relate to working conditions, then negotiation must take place and an agreement must be reached before changes are introduced. NASUWT Representatives should keep in close touch with their Local Association Secretary and seek advice when necessary.

Staff meetings or departmental meetings must not make decisions relating to the conditions of service of teachers and, in particular, must not express views relating to the employment, non-employment or redundancy of a teacher.

NASUWT Representatives are also entitled to receive information from school or college management. This should include:

- school/college budget;
- school/college pay policy;
- staffing policy/development plan;
- policies on allocation of work/non-contact time/cover;
- disciplinary and grievance procedures;
- capability procedure;
- health and safety policy;
- behaviour at work/dignity at work/bullying/harassment policy;
- equality/equal opportunities policy, including the Disability Equality Scheme;
- time budget;
- calendar of meetings/activities, etc.;
- school/college procedures (e.g. performance management policy);
- national agreements (Burgundy Book);
- contractual duties (*School Teachers' Pay and Conditions Document (STPCD)*) (Blue Book).

It would also be useful to get copies of any local agreements across your LA and any agreed model policies. However, the governing bodies of schools may adopt these model policies or change them, in which case the NASUWT Representative should be consulted.

Dealing with the employer

Most solutions can be found in sensible discussion and negotiation with those who have the power to put matters right. In your case, this will usually be the headteacher or principal of your school or college. There is no immediate way to become proficient as a Representative and negotiator and, as with most skills, practice is key.

Building confidence

Confidence is one aspect of success. Confidence comes partly from knowledge and experience.

It is important to attend the NASUWT Working Together courses for Representatives as these are designed to help Representatives develop a range of skills.

As a Representative, you may encounter both success and failure when trying to resolve members' issues. Sometimes, the outcome you wish to achieve is not going to be attainable.

A source of confidence can be the trade union organisation you have built in your school and the NASUWT organisation that stands behind it. Remember that you are part of the wider Union and there is a range of support available through your Local Association and your Regional Centre.

Dealing with the headteacher or principal

On most occasions, the employer representative you will deal with will be your headteacher or principal. Often, this person can help sort out the problems individual members bring to you and it is the headteacher or principal that you will consult and negotiate with in your defence of members' collective interests.

Where possible, you should try to establish a good working relationship. Although a trade union representative and the employer may have differing views, matters can often be resolved in a climate of mutual respect and a sensible headteacher will welcome the role you play.

Working with other trade unions

The NASUWT Representative should take the lead in setting up a framework for co-operation. This will involve establishing a joint union committee of union representatives, to discuss issues as and when they arise.

Wherever possible, a joint position should be agreed. However, we have to recognise that, from time to time, members of other education unions may wish to adopt a different stance from that which the NASUWT believes to be in the best interests of teachers. On those occasions we have to recognise the right of colleagues in those unions to pursue their interests and they should recognise the right of the NASUWT to do likewise.

There will probably be support staff trade unions represented in the school or college. UNISON, GMB and Unite represent other support staff and are all signatories to the National Agreement. On many issues there will be a common interest shared by all employees.

Structures for consultation and negotiation

Experience has shown that the best way of achieving constructive discussions with school/college management is to establish some formal or semi-formal structures in which these discussions take place. The NASUWT recommends the establishment of a union Joint Negotiating Committee (JNC), consisting of trade union representatives on one side and representatives of the management on the other. The JNC should have referred to it all matters that impact upon teachers' conditions of service or pay.

Management should understand that teachers' conditions of service and pay are the concern of recognised trade unions and not of other groupings within the school or college.

Appendix 2 of this handbook contains a model constitution for a school JNC, which can be adapted to suit your own situation. Small schools would not need elaborate arrangements, but whatever the size of the school or nature of the consultative and negotiating arrangements, some basic principles apply:

- all matters of conditions of service should be discussed with union representatives through this committee;
- all recognised trade unions have a right to have a representative on the committee;
- unions and management have the right to have 'advisers' present;
- each union has the right to make separate approaches on any issue where no union agreement exists;
- meetings will take place during paid time;
- a mechanism for resolving disputes should be established.

Using the PIP approach

When handling problems of any sort it is wise to have a general strategy so that you can be systematic in your approach, whether it is making an approach to school management on behalf of members or when involved in representing an individual member. The NASUWT favours using an approach called 'PIP'. **PIP** stands for **P**roblem, **I**nformation and **P**lan. The headings indicate the stages of preparation.

Identify the **PROBLEM**

- ❖ What are the facts?
- ❖ Is it a grievance or disciplinary issue?*
- ❖ Is it an individual case or part of a wider problem?
- ❖ Can I settle it at school level?

Find the **INFORMATION**

- ❖ What do the agreements (if any) say?
- ❖ What are the agreed procedures?
- ❖ What does NASUWT policy say?
- ❖ Might any legal rights apply?
- ❖ Who should I ask for advice?

Work out a **PLAN**

- ❖ How should I involve the members?
- ❖ What are the NASUWT's aims?
- ❖ How should I take up the problem (and with whom)?
- ❖ What arguments should I use?
- ❖ What pressure (if any) can the Union bring to bear?
- ❖ How can tackling this problem be used as a way of strengthening the Union?

***Remember**

1. You can only represent members in disciplinary/grievance procedures if you have been accredited to do so and are acting on the advice of your Local Association Secretary. This accreditation is gained by attending the appropriate training.
2. Always keep a careful record of what you do and of any meetings you attend.
3. You must follow the **NASUWT Code of Practice for Handling Members' Casework**.

Problems come in many shapes and sizes. Sometimes it is not entirely clear, at first sight, what the problem actually is. You may need to carry out some investigation, including talking to the member(s) concerned, to make sure that you have the facts straight in your mind and are clear about the nature of the problem.

Some problems brought forward by members may fall into the category of **grievances**. Members may feel that they have been badly treated in some way and want you to take the matter up.

Sometimes you may have to advise members that it would be a mistake to take the matter up if there is little or no chance of success. Sometimes you will decide that, although the grievance is genuine, it is not something that the employer can solve and you may have to advise the member to seek further advice. Sometimes the complaint is about the behaviour of a fellow worker. Such problems are always difficult to resolve and you may want to discuss the matter with the parties involved rather than take up the issue with management. And, of course, some problems are both genuine and capable of being resolved by the employer or management. You may wish to take these up with your headteacher.

By law, every school must have a written **grievance procedure** that lays down the process by which problems of this sort can be dealt with.

There is, invariably, an informal stage to the procedure where you will have an opportunity to solve the problem in discussion with the member(s) and the school/college management. Where possible, problems are best dealt with at this informal level. Of course, the problem might be that the member has been accused by the management of some misconduct. In this case, the member may be subject to **discipline**.

By law, all schools must have a written **disciplinary procedure** that will lay down the 'rules' of procedure.

Finally, the problem, although raised by an individual member, may have implications for other staff in the school. In this case it becomes a **collective** issue and may need to be the subject of consultation/negotiation between the NASUWT Representatives and the school/college management. Alternatively, it may be a collective issue that you can organise a campaign around. Once you have a clear idea of the problem, you can then begin to decide what information you need to gather in order to tackle it.

Information is crucial when handling members' problems. Your first source of information will be from the members themselves. You may have to interview individuals to establish the facts or you may have to hold meetings of members to ascertain their views.

Much of the basic information you need can be gathered from documents (e.g. the Blue Book and the Burgundy Book). You need either to have copies of these in your file or easy access to them within your school.

Agreements (at school, local or national level) are another vital source of information. At school level, for example, there might be an agreement about the distribution of 'duties' amongst the staff and at local level there might be an agreement that improves upon national arrangements for sick leave.

Don't forget **custom and practice**. These are arrangements that may have continued for years without ever being written down. You can consider such arrangements as unwritten agreements that management should not change without prior negotiation with the trade unions.

Make sure you know what the problem is. You might also wish to consider whether the member has any legal employment rights covering the matter in dispute.

There are also legal rights relating to health and safety. In both individual and collective issues, union policies are an important source of information. Don't worry if you do not have all of this information at your fingertips. You can turn to the NASUWT for detailed information and advice. Contact your Local Association Secretary or Regional Centre.

Planning is the final stage of the process. Once you have understood the problem and have gathered the necessary information, you should consider the following:

- Does the case have merit?
- Should the Union be supporting it?
- Is it an individual matter that needs tackling with grievance or disciplinary procedures or is it a collective matter that needs taking up through campaigning or existing consultation/negotiation machinery?
- Is it a case that needs the involvement of others within the Union (Health and Safety Representative, Local Secretary, etc.)?
- Is it a problem that can be sorted out at school level or does it need tackling at the LA, or even national, level?

A good guiding principle is that problems should be sorted out at the lowest possible level. Many simple, minor day-to-day problems can be sorted out by informal discussions with members of the management team and, if this can be done, it benefits everybody. It is better to be a troubleshooter where possible! If the problem is urgent, then there should be a way of raising it immediately with the headteacher.

Sometimes it will not be possible to solve problems informally. In these cases, you may decide to embark on more formal solutions by invoking available procedures or raising the issue(s) through school level consultation/negotiation procedures.

The way in which you decide to handle a problem may depend on circumstances other than the facts of the case. For example, if you have a large, determined NASUWT membership, you may be able to tackle problems in a way that is not possible if you have a very small membership or if members are not willing to give support.

Remember that when you are working out your plan of action, you are acting as a Representative of the NASUWT. Always be aware of Union objectives and of the attitude and views of your members at school. Never be afraid to take advice from your Local Association Secretary and never be afraid of passing the problem on to somebody more experienced or senior in the Union if you feel that you may be getting out of your depth. In such circumstances, the preliminary work you have done and the notes you have made will be invaluable.

Make sure you have a plan.

Services for members

The NASUWT's legal and casework services for members, and in some cases their families too, is the envy of many other organisations. The Union uses solicitors who specialise in employment, personal injury, trade union and criminal law. More information can be found in the Membership Services Booklet and the NASUWT Membership Services Diary.

Helping members in financial difficulty

The NASUWT Benevolent Fund is available to members, former members, the dependants of members and former members, and dependants of deceased members, provided a subscription has been paid to the Union (and former members have not joined another teaching trade union). Sometimes, members experience financial hardship through no fault of their own and as a result of unforeseen circumstances. These situations can arise because of chronic illness, bereavement, an accident or loss of employment through dismissal or redundancy. The NASUWT Benevolent Fund was created to provide effective short-term assistance during such difficulties.

For those members who have accumulated large or unmanageable debts, the Benevolent Fund provides access to a money advice service through Payplan, which is a free and confidential debt advice company.

A member seeking financial help should contact their Local Association or the Legal and Casework Team at NASUWT Headquarters to arrange a visit from a local benevolence officer who will complete the application form on the member's behalf. All information will remain strictly confidential.

Employment-related legal services

- Casework advice and assistance may be provided in respect of matters arising from or in the course of a member's teaching duties. The Union's casework services include:
 - advice on all aspects of employment;
 - the defence of disciplinary allegations or competency proceedings;
 - representation, where claims are deemed to have reasonable prospects of success, at Employment Tribunals (ETs), for cases such as breach of contract, unfair dismissal, redundancy and discrimination;
 - accidents at work or on a journey to and from work where the accident is caused by the negligence of a third party (see Accidents, page 28);
 - assaults at work (see Assaults, page 31);
 - criminal allegations (see Allegations, page 29);
 - termination of employment via a mutual agreement.
- Where it is judged necessary and appropriate, legal assistance will be provided at no cost to the member.
- NASUWT members who were not in membership or were three or more months in arrears with their subscriptions at the time the issue occurred are not entitled to casework representation and/or legal assistance and cannot establish entitlement to representation by subsequently paying arrears. Retired, former, career-break and associate members who were in full membership at the time the issue occurred, and in the case of former members, providing they have not joined another teacher trade union, are also entitled to representation.

- NASUWT Representatives should contact their Local Association Secretary if they believe a member needs legal assistance. In cases of real emergency, which usually involve a criminal allegation, see 'Allegations' on page 29.

Non-employment-related legal services

FREE non-employment Legal Advice

NASUWT members can take advantage of a 30-minute free advice service staffed by experienced advisers able to access the latest information and equipped to advise on any non-employment legal issue. This service is provided for the NASUWT by Thompsons Solicitors.

Call 0808 100 2221 between 8am and 8pm on weekdays to make an appointment to speak to an adviser. A membership number will be required to use this service and is only for members.

Members and their families

The NASUWT, in association with Thompsons Solicitors, the UK's largest and longest established firm of personal injury and employment lawyers, offers a complete legal package for members and their families available through one FREE telephone number.

Call 0808 100 2221

- Free personal injury service covering any non-work-related injury, disease or illness caused by someone else, provided the claim can be pursued in the UK courts. Members should call the helpline; the operator will take relevant details and immediately forward your claim to a specialist personal injury lawyer.
- Members and their families have access to a FREE road traffic accident scheme. If a member or any member of their family is injured in an accident on the roads – whether as a driver, cyclist or pedestrian – and there is clear liability on the part of another road user, the NASUWT provides full legal assistance in making a claim for personal injury.

Call 0808 100 2221

- Free Will Writing Service for members and a reduced cost service for family members. Call the Helpline for an information pack or visit the Thompsons website at www.thompsons.law.co.uk/wills/your-will.htm. Thompsons do reserve the right to make a charge if the will contains complex tax provisions or the subject makes substantial changes once the will is drafted.
- Hassle-Free Conveyancing – members and their families can take advantage of this low fixed-fee package that even avoids the need to visit a solicitor. Just call the Helpline number for a quote or visit www.thompsons.law.co.uk/property-moves/your-property-moves.htm.

Call 0808 100 2221

Is there anything else I should know about the NASUWT?

You might like to know that, apart from being an important UK teachers' union, the NASUWT is very active internationally.

- The NASUWT is represented on the European Executive of Education International (EI), the worldwide organisation for teacher unions and the European Trade Union Committee for Education (ETUCE).
- The Union plays an active role in the European Work Hazards Network.

International Strategy

The NASUWT is committed to supporting trade unions, the growth of democracy and the development of human rights across the world. There are four key countries adopted by the NASUWT National Executive to focus upon: Burma, Colombia, Iraq and Zimbabwe. Although there are differences in approach for each country, the NASUWT is concerned with specific activities to help develop teacher trade unions, defend human rights and promote democracy. The NASUWT National Executive has also prioritised the Middle East and North African region in the light of the Arab Spring in 2011, with particular concerns over continuing human rights and trade union rights problems in some countries including Bahrain.

The NASUWT's international work is crucial in a context in which trade unions are under attack across the world, not only by non-democratic governments but also by many multinational corporations. The international dimension to the NASUWT's work has become particularly acute now that UK governments have begun to cherry-pick the free market policies and strategies of other countries, including misusing international evidence to back up their own ideological beliefs.

For further up-to-date information on all of the Union's international campaigns, please go to www.nasuwt.org.uk/International.

Accidents at Work

The NASUWT offers a FREE personal injury legal service that is second to none. The Union uses only solicitors specialising in such work.

- Members suffering an accident at work should ensure that details of the incident are recorded in the school accident book.
- The NASUWT Health and Safety Representative should investigate the accident and note any relevant circumstances. Sketches, photographs and measurements may be taken. Keep copies of everything.
- The member should obtain a copy of form BI100A. The return of this form (parts 1-7) registers the injury as work-related and will ease any subsequent claim for Industrial Injuries Disablement Benefit in the event that a full recovery is not made. In these circumstances, form BI100A should also be used to claim Industrial Injuries Disablement Benefit for an accident at work.
- If the member believes that the accident was caused by the negligence of a third party, then the Local Association Secretary should be contacted in order to arrange for an NASUWT Legal Aid application form to be obtained, completed and returned for assessment to the Legal and Casework Team at NASUWT Headquarters.
- Members can also telephone the NASUWT free Legal Advice Line on 0808 100 2221 to enquire about making a personal injury claim.
- If the employer carries 'no fault' Personal Accident Insurance on behalf of employees, then a protective claim may be made under the relevant policy, but no action should be taken pending a decision about the possibility of pursuing proceedings in negligence (see above).

If all else fails, there remains the possibility of seeking a discretionary ex gratia payment from the employer. If such a payment is made, this is entirely at the discretion of the employer. The member should not seek such a payment until the Union and its solicitors have reached a decision about the possibility of pursuing proceedings in negligence. Advice should be sought from NASUWT Headquarters.

Further Information

Form BI100A Industrial Injuries Disablement Benefit for an accident at work

www.direct.gov.uk or from the appropriate regional benefit centre

Allegations

It is an unpleasant fact of teaching today that more and more teachers have an allegation of emotional, physical or sexual abuse made against them. Since 1991, the NASUWT has been highlighting the injustice being perpetrated against teachers and other school staff as a result of being falsely accused.

A government-commissioned study conducted between April 2009 and March 2010 confirmed the Union's concerns, demonstrating that 45% of allegations against school staff were unfounded or unsubstantiated and 2% were malicious. Only 3% led to convictions or police cautions.

As a consequence of these concerns, legislation has been introduced to afford some protection to teachers facing allegations of criminal offences. The Education Act 2011 contains a provision which restricts the reporting of allegations of criminal offences by teachers in England and Wales and any associated publicity that would identify the subject of such allegations, prior to any charge. The Union has long campaigned for a statutory provision to grant anonymity for teachers facing allegations from pupils.

Statutory government guidance was condensed and reprinted by the Department for Education (DfE) in July 2011 and is entitled: *Dealing with Allegations of Abuse against Teachers and other Staff: Guidance for Local Authorities, Headteachers, School Staff, Governing Bodies and Proprietors of Independent Schools*. The guidance is aimed at all schools, including academies, free schools, independent schools and all types of maintained schools.

Key points are:

- Schools should not automatically suspend teachers where other alternatives exist.
- All but the tiny number of the most complex cases should be resolved within three months and the vast majority should be resolved in four weeks.
- Malicious, unsubstantiated or unfounded allegations should not be included in employment references.
- If an allegation is received, the Local Authority Designated Officer (LADO) should be informed. The LADO's first step will be to discuss the allegation with the headteacher (or chair of governors if the allegation is against the headteacher) and establish that it is not demonstrably false or unfounded. If this is not the case, the LADO will be responsible for consulting with the police and social care colleagues as appropriate.

Further Information

Department for Education: Allegations of Abuse Against Teachers and Non-teaching Staff
www.education.gov.uk

Dealing with Allegations of Abuse against Teachers and other Staff – Guidance for Local Authorities, Headteachers, School Staff, Governing Bodies and Proprietors of Independent Schools (2012)
www.education.gov.uk

Use of Reasonable Force – Advice for head teachers, staff and governing bodies (2012)
www.education.gov.uk

Behaviour and Discipline in Schools – A guide for head teachers and school staff (2012)
www.education.gov.uk

Safeguarding Children and Safer Recruitment in Education (2007)
www.education.gov.uk (due to be updated in 2013)

- There are three possible types of investigation:
 - enquiries by social services or the NSPCC under local child protection procedures;
 - related police investigations into possible criminal offences; or
 - enquiries under school disciplinary procedures.
- Investigations by police or child protection agencies take precedence over internal investigations. These should be held in abeyance by the school until the completion of the former.
- If the police contact a member for an interview, the Regional Centre must be contacted immediately to arrange legal representation. The Regional Centre will need details of the police officer's name and rank, the police station and contact telephone number of the investigating officer. The Regional Centre will contact the Legal and Casework Team, who will instruct the Union's solicitors.
- In an emergency out of office hours, the member should call the Union's solicitors' out-of-hours line on 0800 587 7530 (weekdays, Monday to Thursday 5.30pm-8.30am, and weekends, Friday 5.30pm-Monday 8.30am).
- The member should say to the police officer:

"I am anxious to co-operate in getting this matter cleared up. I have been advised by my Union not to agree to answer questions or make a statement until my solicitor is present."
- If a member is arrested, s/he should ask to make a telephone call to their Regional Centre. If the police refuse, the member should ask the police for the Duty Solicitor and should contact their NASUWT Regional Centre as soon as possible.

Legal representation is provided by Thompsons Solicitors, who are experts in the representation of NASUWT members. It should be noted that legal representation can only be provided in circumstances where the allegation is work-related.

NASUWT members who were not in membership or were three or more months in arrears with their subscriptions at the time the alleged incident occurred are not entitled to casework representation and/or legal assistance and cannot establish entitlement to representation by subsequently paying arrears. Retired, former, career-break and associate members who were in membership at the time the issue occurred, and in the case of former members providing they have not joined another teacher trade union, are also entitled to representation.

Assaults

The NASUWT has a long record of protecting members against assaults at work. Any assault against a member should be reported immediately to the Local Association Secretary. Under health and safety law, all schools should have a policy on protecting staff against violence at work.

- Any member suffering an assault should ensure that the details of the incident are recorded in the school accident book. Any assault causing serious injury leading to absence from work for more than three days must be reported to the Health and Safety Executive (HSE) in accordance with the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR).
- The member should obtain a copy of form BI100A from www.direct.gov.uk or the appropriate Regional Benefit Centre. The return of sections 1-7 of this form registers the injury as work-related and will assist any subsequent claim for Industrial Injuries Disablement Benefit.
- The employer should report the assault to the police. If the employer refuses to do this, then the member should make such a report himself/herself within 48 hours of the incident taking place, where possible, and the Local Association Secretary should be informed.
- If the Crown Prosecution Service decides not to act against the assailant, then, through the Local Association Secretary, the employer should be urged to instigate a private prosecution. In case of the employer refusing, the Local Association Secretary will refer the case to the Legal and Casework Team at NASUWT Headquarters for assessment.
- The Union may support a private prosecution if there are reasonable prospects for bringing such an action to a successful conclusion and if it is deemed that proceedings through the courts would contribute to the process of safeguarding teachers against assault. Members need to be aware that the viability or otherwise of bringing a private prosecution will be largely determined by the age of the assailant and the possibility of demonstrating intent if s/he is a minor.
- In appropriate circumstances, it may be possible to seek compensation from the Criminal Injuries Compensation Authority (CICA). It is normally necessary for the assault to have been reported to the police. A claim must be made within two years of the date of the assault.
- If the attacker is a pupil, the NASUWT Representative should press for the permanent exclusion of the offender. If this is refused, then, through the Local Association Secretary, the National Executive Member should be informed. In the

Further Information

- *A Guide to Risk Assessment of Violent and Abusive Behaviour: A guide for NASUWT Representatives (NASUWT)*
- *Behaviour Management Pack (NASUWT)*
- *Pupil Behaviour Position Statement (NASUWT)*
- *Violence – Health and Safety at Work leaflet (NASUWT)*
- *Enough is Enough CD-ROM (NASUWT)*
- *Violence in the education sector (HSE)*
www.hsebooks.com
- *RIDDOR 1995* www.hse.gov.uk/riddor
- *Form BI100A*
www.direct.gov.uk

appropriate circumstances, the Union will support a decision not to teach the offending pupil.

- If the attacker is a parent or intruder, the possibilities of prosecution detailed above should be explored. In any case, the employer should be urged to write, banning the offender from the premises and threatening prosecution in case of any repetition.
- If the negligence of the employer or some third party has exposed the member to risk of assault, then there may be a possibility of a claim for compensation being taken through the courts. A claim must be made within three years of the date of the assault. Members who have suffered a personal injury at work should contact the NASUWT's free legal advice line on 0808 100 2221.

Budgets

School governing bodies are responsible for setting the budget each year. In academies and free schools, this function may be delegated to the headteacher/principal.

All funding devolved to schools, including pupil premium funding, is available to governors and headteachers to decide what to spend it on. As the year progresses, they can move funds from one heading to another. This is called virement. Headteachers can decide how to make use of pupil premium funding in the school. This should be done to support the progress made by pupils who attract the pupil premium, but the headteacher is not required to spend pupil premium funding specifically on the child for which the pupil premium allocation was made.

Employers in the independent sector, including in state-funded academies and free schools, may be reluctant to share information on budgets and running costs, but the NASUWT Representative should, where possible, obtain relevant information in order to engage in a meaningful dialogue about decisions affecting members within the school/college.

For schools, the budget construction, monitoring and reporting is a cyclical process. The outturn of one year informs decisions on the budget for the succeeding year. During what is now a period of shrinking budgets and significant change, the Coalition Government has abandoned multi-year budgeting.

For the year 2013/14 there are to be significant changes to the methodology for distributing funding between the LA and maintained schools. The Coalition Government has removed a great deal of the flexibility available to local authorities to tailor the funding available to local needs, and has required LAs to delegate much more funding out to schools, and away from local services traditionally provided by the LA. Apart from increasing the burden on schools, this also puts at risk these central services and particularly puts at risk the funding available for trade union facility time. It is vital that NASUWT local officers engage with their LAs and the schools forum for their schools to ensure that this funding is de-delegated back to the local authority, a move allowed under the regulations.

The process outlined below shows the current arrangements.

In October 2012, LAs submitted provisional Schools Budget pro-forma to the Education Funding Agency (EFA).

On 28 November 2012, the School Census database was to be closed.

In December 2012, EFA confirmed Dedicated Schools Grant (DSG) allocations for 2013/14 (prior to recouplement of funding for academies).

In January 2013, LAs should have submitted final data for Schools Budget pro forma.

From January to March 2013, LAs should confirm budgets for their maintained schools. The EFA should have confirmed academy budgets.

NB. Academy budgets run from September to September, not in the financial year as maintained schools budgets do. Please see the end of this section for further details.

Therefore, for schools in preparation for the financial year 2013/14, the budgeting cycle should operate as follows:

APRIL

New financial year. Review actual expenditure. Finalise and submit budget to LA.

JUNE/JULY

Reconcile actual expenditure. Confirm September staffing changes and amend planned budget.

OCTOBER/NOVEMBER

Set educational objectives for next financial and academic year. Annual report to parents (including financial statement for previous year). Provide the LA with the information required for them to complete the provisional Schools Budget pro forma to the EFA.

DECEMBER AND JANUARY

EFA confirms DSG allocations for 2013/14 (see above). Schools provide data updates to the LA.

JANUARY

LAs should submit final data for Schools Budget pro forma.

JANUARY to MARCH

Receive actual budget share. Review plans and allocate budget. EFA confirms academy budgets.

Points to note:

This process illustrates the budget cycle in a typical maintained school. The key stages at which you should take a particular interest are indicated.

The process begins around **January/February/March** each year when the governing body receives from the LA a preliminary estimate of the money it is likely to receive for the following financial year (known as the school's 'budget share'). At this stage, the governors will begin to make decisions about how the 'cake' will be divided and identify any potential problems. The Schools Forum may make adjustments to the LA

Local Management of Schools (LMS) formula for distribution.

ACTION POINT: This information should be requested from the employer at this stage. The NASUWT Representative will want to be alerted at the earliest possible stage to cuts or restructuring proposals that affect members. The teacher governor may help obtain this information. Any potential problems should be reported immediately to the Local Association Secretary.

By the end of **March**, the governors will be informed by the LA of the actual budget share the school will receive. This figure should approximate the 'indicative budget share' governors received in **December/January**. Sometimes, the actual figure differs significantly from the indicative figure and it is possible that it will be lower. This may be caused by LAs not receiving the funding expected from government. This is also why March is often a time of crisis within some LAs and schools.

Once governors/employers know exactly how much money they have to spend, they will make final adjustments to their draft budget or, in the 'crisis' scenario, look for substantial savings. This is a dangerous time for many teachers as shedding teaching staff can be seen as the easiest way of making significant savings. Multi-year funding is intended to introduce more stability, but Representatives should be alert to the balances held by the school, particularly those in deficit.

ACTION POINT: The NASUWT Representative should alert the Local Association Secretary to any potential difficulties at the earliest opportunity and seek advice.

You should also consult/inform and involve NASUWT members at an early stage in order to seek a negotiating mandate and gauge opinion within the school/college.

By **April**, the beginning of the financial year, the governors will have finalised and submitted their projected budget. They will also be collating the figures for their actual expenditure during the preceding year in preparation for the outturn statement.

ACTION POINT: You should obtain a copy of the final budget plan and consult members on all the relevant issues.

In **June**, the governors will be in possession of additional information with budgetary implications: they will know which members of staff are leaving at the end of the school year and which need to be replaced. If senior or experienced staff are leaving and are either not replaced or replaced by younger teachers, this represents a potential budget saving and extra money can be spent elsewhere.

ACTION POINT: The NASUWT Representative needs to be particularly alert at this time. Proposed or actual reductions in teaching staff without a corresponding reduction in pupil

numbers means an increased workload for members. It may be necessary to make representations to the governing body with the assistance of the Local Association Secretary.

By **July**, the governing body should be in a position to finalise its accounts for the preceding financial year. Governors of LA schools must submit these accounts, known as Section 52 or outturn statements, to the LA. The LA is then under an obligation to make the accounts easily available to the public.

ACTION POINT: The NASUWT Representative should obtain a copy of the statement for analysis.

By the beginning of the school year in **September**, governors will be looking ahead to the next financial and academic year. They will be considering and possibly amending the school development plan. Decisions made at this time (for example, decisions relating to the curriculum) could have profound effects on the security of employment of teachers.

ACTION POINT: The NASUWT Representative should be involved in discussions on any issues that may affect members.

As the budget cycle moves into 2014, it will be necessary to take into account changes which may be introduced into the process as a result of the operation of the changes introduced for 2013/14. The NASUWT will review this guidance in light of any decisions the DfE makes for the next funding year.

ACTION POINT: If pupil numbers decline significantly, inform the Local Association Secretary.

March completes the cycle when, again, the LA will be indicating to the school its likely budget share for the next financial year. Representatives should also note that maintained schools are no longer required to work towards Financial Management Standards in Schools (FMSiS), which has been replaced by the Schools Financial Value Standard which LA-maintained schools are required to complete every year.

Representatives in academies and free schools should note that funding is distributed by the EFA in a financial year that operates from September to September. This means that the cycle above will differ in respect of the timing of some of the action points during the year. In addition, academies and free schools are given considerable freedoms to manage their affairs and will therefore operate their own timetable of internal details. Representatives in academies and free schools should therefore request this information from the headteacher, principal or business manager.

Bullying

Workplace bullying is a serious issue for teachers and therefore a concern of the NASUWT Representative if they know or suspect a member is involved.

The NASUWT believes that all children and young people and staff in schools have a right to learn and work in a safe and secure environment free from intimidation, harassment, abuse and fear and where they feel valued and respected. There needs to be a whole school approach to tackling bullying: tackling the bullying of staff by other staff is as important as tackling pupil-on-pupil bullying and the bullying of staff by pupils.

The NASUWT defines bullying as the ‘unjust exercise of power of one individual over another by the use of means intended to humiliate, frighten, denigrate or injure the victim’.

In 2012 the NASUWT carried out an online survey that showed that over two thirds of teachers have experienced or witnessed workplace bullying in the last 12 months and one in five teachers have left their job because of bullying from colleagues or managers.

Prejudice is one of the common motives for bullying. Prejudice-related bullying is often characterised by abusive behaviour, intolerance or ostracism on grounds of an individual’s gender, gender identity, ethnicity, body image/size, sexuality, disability, age, religion or belief.

The information and communications technology (ICT) that has transformed the working lives of many people and enhanced learning and leisure for many children and young people has also facilitated the growth of cyberbullying. The growth of websites such as YouTube, RateMyTeachers, Bebo, MySpace and Facebook means individuals can post offensive, anonymised material on the Internet. Mobile phones can be used to bully through silent or abusive calls and text messages. The NASUWT maintains that action should be taken to prevent use or access by pupils whilst on school premises during school sessions. School policies and procedures should neither require teachers nor encourage them to provide individual mobile phone or e-mail contact details to pupils.

Some of the regular manifestations of bullying of staff include:

- ⇨ competent staff being constantly criticised, having responsibilities removed or being given trivial tasks to do;
- ⇨ shouting at staff;
- ⇨ persistently picking on people in front of others or in private;
- ⇨ blocking promotion;

Further Information

- *Prejudice-related Bullying/Cyberbullying Card*
- *The experience of prejudice-related bullying and harassment amongst teachers and headteachers in schools – Report and Research in Brief*
- *Tackling Prejudice-Related Bullying*
- *Tackling Homophobic Bullying (NASUWT)*

- regularly and deliberately ignoring or excluding individuals from work activities;
- setting a person up to fail by overloading them with work or setting impossible deadlines;
- consistently attacking a member of staff in terms of their professional or personal standing;
- regularly making the same person the butt of jokes.

The NASUWT has always supported teachers in schools and colleges in dealing with incidents of workplace bullying and the NASUWT Representative has a role to play in dealing with workplace bullying. Bullying at work is illegal and remedial action should be taken against perpetrators if employers fail to intervene or fail in the legal duty of care placed upon them by the Health and Safety at Work etc. Act 1974. Additionally, the Protection from Harassment Act 1997 makes harassment both a civil tort and a criminal offence.

All schools and colleges should have an anti-bullying strategy to deal with both the bullying of pupils and adults. The NASUWT believes in zero tolerance. School behaviour policies and exclusion guidance should state specifically the sanctions to be applied to incidents of bullying.

Schools also need to have in place effective systems to deal specifically with the problem of prejudice-related bullying and school anti-bullying policies and procedures should include specific reference to prejudice-related bullying in all forms.

What can the NASUWT Representative do?

Apart from being told by a member that they are being bullied, NASUWT Representatives need to be aware of the signs of bullying, which could include:

- erratic or unusual behaviour consistent with excessive stress;
- an apparent failure to cope with the job;
- indicative patterns of illness;
- the member appearing withdrawn, distracted or nervous.

If a member is being bullied, Representatives should:

- support the bullied member;
- get her/his agreement on how to tackle the matter;
- organise meetings of members around the wider issue of bullying to:
 - identify the actions of the bully;
 - agree how to tackle bullying as a team;
 - alert the Local Association;
 - publicise the general issue;
- press for a whole school anti-bullying or dignity at work policy.

Essentially, the bully should be exposed – but any response must take into account the feelings of the victim. Remember that management, and ultimately the employer, has a duty of care under the Health and Safety at Work etc. Act 1974 for the welfare of employees.

Where incident(s) lead to illness requiring sick leave, a member should complete and submit DWP form BI100A 'Accidents at work – what to do about it' (see Accidents at Work, page 28).

Capability

Governing bodies must by law have procedures for dealing with lack of capability in members of staff. In 2012 the DfE issued a new model policy for appraisal and capability. Initially, the capability procedure was presented as an extension to the appraisal policy. The NASUWT contested this during the consultation and subsequently the two policies were separated from each other. It is essential when dealing with the negotiation of such policies at the local level that any attempt to join the capability policy and procedure to those for appraisal is resisted.

This is particularly important since the School Staffing Regulations have, during 2012, been amended to require a school, when asked, to provide other schools with details of any involvement in capability procedures over the previous two years by a teacher applying for a post in that school.

The DfE model has no informal stage as it states that ‘the procedure applies only to teachers and headteachers about whose performance there are serious concerns that the appraisal process has been unable to address.’

ACTION POINT: NASUWT Representatives should ensure that any change from the existing capability arrangements are negotiated with the NASUWT and that a meaningful consultation exercise is carried out on the changes.

During the course of such negotiations, NASUWT Representatives should do all they can to ensure that any policy/procedure includes guidance to the effect that a fall-off in performance could be as a result of illness, onset of disability or emotional upheaval resulting from situations such as divorce or bereavement and that all such circumstances should be considered and taken into account before proceeding to any formal stage.

It is vitally important that teachers have a chance to benefit from the opportunity to make the required improvements in performance during a reasonably long period of informal counselling before there is recourse to a formal capability procedure.

Under the DfE model policy and procedure where a teacher is thought to be underperforming, the headteacher should investigate the matter. (In the case of a headteacher, this should be conducted by the Chair of Governors). The teacher should be given counselling and support outwith the formal procedure. (The school can move directly to the next stage if the ‘education of children is in jeopardy’, but this should be resisted if at all possible, and particularly in the absence of substantial evidence.)

Further Information

- [Teacher capability/competence – A review of the evidence](#)
- [Casework Code of Practice \(NASUWT\)](#)

At least five (more if it can be negotiated) working days' notice will be given of the formal capability meeting. The notification will contain sufficient information about the concerns about performance and their possible consequences to enable the teacher to prepare to answer the case at a formal capability meeting. It will also contain copies of any written evidence and the details of the time and place of the meeting and will advise the teacher of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

Formal capability meeting

If the level of the teacher's performance does not improve, a formal capability meeting will take place. This is a meeting intended to establish the facts. The formal capability meeting should take place between the teacher (or headteacher) who may be accompanied by a companion (a trade union representative, for instance) and the headteacher (or Chair of Governors). At the meeting the teacher (or headteacher) may respond to the concerns and provide information or a context to that already collected during an investigation that has taken place.

The outcome of the meeting could be a conclusion that there are insufficient grounds for pursuing a capability procedure, and the meeting could be closed.

In other cases, the meeting will continue. During the meeting, or any other meeting which could lead to a formal warning being issued, the person conducting the meeting will:

- identify the professional shortcomings;
- give clear guidance on the improved standard of performance needed to ensure that the teacher can be removed from formal capability procedures;
- explain any support that will be available to help the teacher improve their performance;
- set out the timetable for improvement and explain how performance will be monitored and reviewed. The timetable should depend on the circumstances of the individual case; and
- warn the teacher formally that failure to improve within the set period could lead to dismissal. In very serious cases, this warning could be a final written warning.

Notes will be taken of formal meetings and a copy sent to the member of staff. Where a warning is issued, the teacher will be informed in writing of the matters covered in the bullet points above and given information about the timing and handling of the review stage and the procedure and time limits for appealing against the warning.

Monitoring and review period following a formal capability meeting

A performance monitoring and review period will follow the formal capability meeting. Formal monitoring, evaluation, guidance and support will continue during this period. The member of staff will be invited to a formal review meeting, unless they were issued with a final written warning, in which case they will be invited to a decision meeting (see below).

Formal review meeting

As with formal capability meetings, at least five (or more, subject to negotiation) working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the teacher of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

If the person conducting the meeting is satisfied that the teacher has made sufficient improvement, the capability procedure will cease and the appraisal process will restart.

In other cases:

- If some progress has been made and there is confidence that more is likely, it may be appropriate to extend the monitoring and review period.
- If no or insufficient improvement has been made during the monitoring and review period, the teacher will receive a final written warning.

As before, notes will be taken of formal meetings and a copy sent to the member of staff. The final written warning will mirror any previous warnings that have been issued. Where a final warning is issued, the member of staff will be informed in writing that failure to achieve an acceptable standard of performance (within the set timescale) may result in dismissal and given information about the handling of the further monitoring and review period and the procedure and time limits for appealing against the final warning. The teacher will be invited to a decision meeting.

Decision meeting

As with formal capability meetings and formal review meetings, at least five (as negotiated) working days' notice will be given and the notification will give details of the time and place of the meeting and will advise the teacher of their right to be accompanied by a companion who may be a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

If an acceptable standard of performance has been achieved during the further monitoring and review period, the capability procedure will end and the appraisal process will restart.

If performance remains unsatisfactory, a decision, or recommendation to the governing body, will be made that the teacher should be dismissed or required to cease working at the school.

Should an NASUWT Representative believe at any point in the procedure (this may emerge early in the procedure) that the member is at risk of dismissal, then support should be sought from the NASUWT Regional Centre without delay.

The model policy produced by the DfE is, in the view of the NASUWT, wholly unacceptable. The NASUWT has produced a critique of the policy and this can be read on the website at www.nasuwf.org.uk.

NASUWT Representatives should respond to assertions from schools and employers that are insisting on adopting this policy by taking all steps to dissuade them from doing so, and if this is not possible try to drive improvements into the policy by:

- establishing an informal stage within the policy and procedure;
- requiring evidence to be produced to justify any decisions and actions taken against the teacher;
- requiring that timescales for improvements to be achieved are adequate to make the requirements realistic to achieve;
- requiring that access is made available to relevant support, development and training, where appropriate, in good time to achieve the necessary improvement;
- providing more stages in the process so that teachers have more opportunity to demonstrate that they are meeting the required levels of performance;
- requiring the insertion in the policy of a clause requiring an equality impact assessment to be carried out in each case.

A departure from better agreed procedures should be resisted.

Class Size

Parents, teachers, headteachers and governors agree that excessive class size is detrimental to the education of children, although there is, in England and Wales, no statutory limit on the size of any class above Key Stage (KS) 1. There is a statutory duty upon both LAs and governing bodies to limit the size of infant classes for KS1 children taught by a single qualified teacher to 30 or below.

- As a trade union, the NASUWT is most concerned that increasing class sizes impose greater workload on teachers, which is unreasonable and unacceptable and must be resisted.
- The NASUWT Representative has the right to receive all relevant information regarding budgeting and staff planning and to engage in consultation with school management.
- The Representative's aim should be to achieve an agreed solution to excessive class size through constructive dialogue with management.
- The solution to excessive class size will be unique to each individual school. In the short term there may be a need for a reduction in other areas of teachers' work in order to enable them to cope with the work generated by larger classes.
- The optimum class size depends on the nature of the pupils and the activity concerned. Custom, practice and best advice is that practical classes should contain no more than 20 pupils.
- The problem of excessive class size may be approached as a health and safety issue under the Health and Safety at Work etc. Act 1974, which requires employers to provide a safe and healthy working environment. The NASUWT Representative should seek the assistance of the Health and Safety Representative in progressing the issue. A risk assessment may be requested of the employer in support of this.

If discussions fail to resolve the problem satisfactorily, the Representative should involve members through communications and regular meetings and seek the support of the Federation or Local Association.

NASUWT Representatives will need to ensure that arrangements in respect of class size in their school are consistent with the arrangements set out in the STPCD on cover.

Contract

Every employee has a 'contract' with her/his employer. An employment contract is an agreement between the employer and employee that sets out the rights and obligations of each party and, in particular, that the employer will pay wages in return for certain specified work carried out by the employee. Contracts are enforceable in law and either side can sue for 'breach of contract' for any breach of contractual terms and conditions. Verbal contracts have the same status as written contracts but are harder to prove if disputed.

Teachers working in community and voluntary controlled schools have a contract with the LA. Teachers in voluntary aided schools, foundation schools, trust schools, city technology colleges (CTCs), academies, free schools, sixth-form colleges and independent schools have a contract with the governing body or proprietor. Some supply teachers are employed by agencies.

What does a contract contain?

A contract contains the terms that specify the obligations of the individual employer to the employee and of the individual employee to the employer.

- An express contractual term is one that is clearly specified, orally or in writing. It might be, for example, the rate of pay being offered.
- An implied contractual term is one that is generally 'understood' and that need not be made express. Judges will assume that these terms are present in a contract of employment whether they are made explicit or not. For example, it is assumed that the employee will give loyal service to the employer. Equally, it is assumed that the employer will not ask the employee to do anything illegal.
- Incorporated terms are usually derived from collective agreements between recognised trade unions and employers. If a recognised trade union makes an agreement with an employer altering the terms of a contract (e.g. the rate of pay), then the employment contracts of employees will be changed whether, individually, they agree or not. Some important collective agreements reached nationally by teacher trade unions, including the NASUWT, are gathered together in a publication called the *Conditions of Service for School Teachers in England and Wales*, otherwise known as the Burgundy Book because of the colour of its cover.
- Statutory terms are those incorporated in the contract of employment by legislation. For example, all workers have a statutory right to minimum conditions relating to maternity, adoption, paternity or parental leave.

Further Information

Transfer of Undertakings (Protection of Employment) Regulations 2006

Teachers in the maintained sector are unusual in that many of the most important elements of their employment contract, such as pay, duties and hours of work, are decided by an Act of Parliament. These terms and conditions are contained in the *School Teachers' Pay and Conditions Document*, otherwise known as the Blue Book. Some independent schools such as academies may choose to adopt the Blue and Burgundy Book terms and conditions for teachers. Statutory terms in an employment contract override all others and cannot be varied.

- **Custom and practice** may result in a contractual obligation. If an employee gives an employer a service over a period on varied terms, then this could be deemed to have become part of the employment contract. However, the reverse is also true. Advice should be taken about potential legal arguments based on custom and practice. It is a perfectly respectable trade union argument.

One part of a contract that the law requires to be in writing is known as the 'Statement of Particulars'. An employer must give this written statement to every employee no later than two months after beginning work. The statement must include the following information:

- the name of the employer and employee;
- the date when employment began and the period of continuous employment;
- scale of pay, pay intervals and how the pay is calculated;
- terms relating to hours of work;
- holiday entitlement (including public holidays);
- the job title or description;
- the place of work;
- rules relating to sickness or injury and sick pay;
- pension arrangements; and
- the employee's job title or brief description of the work.

Other information must also be given in writing within the two-month period but these can be in separate statements. In some cases, the employee can simply be referred to other documents or statutes where the information can be found.

This information will include:

- whether the employment is permanent or for a fixed term;
- details of any collective agreements relating to conditions of service;
- notice requirements;
- disciplinary and grievance procedure;
- the name of the person to whom the employee can apply if s/he is dissatisfied with any disciplinary decision or seeking redress of any grievance relating to her/his employment.

Types of contract

Most teachers are employed on a **permanent** contract either full time or part time. However, increasingly, some teachers are being employed on **fixed-term** contracts.

- A permanent contract has no termination date other than the normal date of retirement.

An employee engaged on fixed-term contracts for a period of over four years must have their contract made permanent (unless the employer can objectively justify the continued use of fixed-term contracts).

Schools should be encouraged to employ persons on fixed-term contracts only where there is an objective reason for so doing. Jobs that are intended to be permanent (and the NASUWT defines these as being for more than one year) should be filled by permanent contract holders rather than by fixed-term contracts that are then renewed.

Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)

When a new employer takes over an existing workforce to carry on substantially the same business which retains its identity and contracts, including continuity of employment, are transferred to the new employer by virtue of the TUPE regulations. For example, teachers working in a community school which converts to academy status should normally transfer under TUPE and therefore continue to have all of the rights under their existing contract of employment, even though the employer has changed. This process is known as a transfer of undertaking. Employment would effectively transfer to the new employer but under the terms and conditions agreed with the previous employer. TUPE is a complex area of law and expert advice should be sought from the NASUWT Regional Centre.

How can the contract be changed?

Despite all of the complications discussed above, a contract of employment is essentially an agreement between the employee and the employer. There must be agreement between the parties if the terms are to be changed.

Unilateral changes in a contract are known as breach of contract and the aggrieved party may be able to claim compensation through the Employment Tribunal or courts if the changes are substantial enough to warrant this.

The terms of a contract can be changed:

- if both sides agree to the changes;
- if an agreement is reached between an employer and the recognised trade unions; or
- if legislation is introduced, in which case a contract would change automatically.

*Transfer of
Undertakings
(Protection of
employment)
Regulations 2006*

Dismissal and re-engagement

Some employers have used this device to force contractual changes on an unwilling workforce. If employees refuse to accept changes proposed by the employer, the new terms are simply imposed. If the proposed changes are significant, the law may regard the employees as having been dismissed and then offered their jobs back on the new terms. If the employees object, but in practice work under the new terms, the law will regard this as an acceptance of revised terms and the employee will lose the right to object.

For example, if an employer adds half an hour to the working day and employees complain bitterly but work to the new hours, they may forfeit the right in law to raise objections later as their conduct may be seen as an implied agreement to change terms. The new terms are incorporated into the contract by custom and practice. Employees have the option of refusing to accept the new terms and resigning their positions or of continuing to work the original hours and risking dismissal, but because few employees can afford to be out of work, this puts great power into the hands of employers. Sometimes an employer's mere suggestion that refusal to accept unwelcome changes could result in the loss of a job is enough to whip employees into line. How can employees be defended in such situations? There are two defences available to employees. One is a legal defence and the other is a trade union defence. Members have to decide which offers the best hope.

The legal defence hinges upon the legal requirement for all dismissals to be 'fair'.

For teachers' pay and pensions matters, see later entries in this handbook. Most teachers are entitled to the following periods of notice: two months in the Spring and Autumn terms, terminating respectively on 30 April and 31 December; and three months in the Summer term terminating on 31 August. The same applies to resignation

Dismissal

Dismissal is the termination of a contract of employment by an employer. The dismissal can be overt, with the employer informing the employee that s/he is dismissed, or the employer can behave in such a way that the employee has no option but to leave due to a fundamental breach of the contract. The latter case is known as 'constructive dismissal'. These are notoriously difficult legal claims and expert advice should be sought before members resign with the intention of seeking to bring this type of claim to the Employment Tribunal (ET).

The law requires all dismissals to be for a reason defined in statute as 'fair'.

Further Information

- *A Voice in Every Workplace Pack*
- *NASUWT Notice Board Pack*
- *Communicate to Recruit (online resource) (NASUWT)*

The law regards the reasons for dismissal listed below to be potentially fair, depending on the circumstances. These are dismissal because of:

- conduct;
- capability/competence;
- redundancy;
- a statutory restriction;
- some other 'substantial' reason

A claim for Unfair Dismissal must be brought within three months less one day of the dismissal, referred to as the 'effective date of termination'. It is important to note that a claim for Unfair Dismissal cannot be brought unless the employee has worked for their employer for at least two years, if employment commenced after 6 April 2012 (and one year for employment started prior to this date). This is known as the 'qualifying period'. Service with a previous 'associated' employer can be counted as the qualifying period for some employment rights, e.g. working for different schools under the same LA.

Employees on a fixed-term contract who have completed the minimum continuous employment with the same (or an associated) employer have the same employment rights as employees with a permanent contract. A fixed-term contract that is renewed immediately upon termination clearly establishes continuity. Even temporary breaks between termination and renewal can sometimes be regarded as not breaking continuity. For example, a teacher employed for some years on a succession of 'term-time only' fixed-term contracts may still be regarded by the courts as having continuity of service. Courts or the ET will judge each case on its merits.

However, workers who are dismissed for any of the reasons below may take a complaint to an ET even if they have been employed for only one day. There is no qualifying period if the dismissal is because of the following and is therefore deemed to be automatically unfair:

- they are pregnant or on maternity leave and are dismissed for a reason connected with this;
- they are a trade union member and/or play an active part in the union (e.g. by being a representative);
- they have refused to join a trade union;
- they have taken legal action against their employer to force the employer to give them their entitlements in law (asserting a statutory right);
- they have refused to do something because there is a serious and imminent threat to their health and/or safety or because they have carried out any functions as a health and safety representative;

- they have brought to public notice some malpractice in the workplace ('whistleblowing');
- they are representing employees in consultations on redundancy or business transfer in a non-unionised workplace;
- they are pension fund trustees;
- they have represented a fellow worker at a grievance or disciplinary hearing or have asked to be accompanied at such a hearing;
- they have campaigned either for or against union recognition;
- they have taken part in lawful strike action and have been dismissed for so doing within the first 12 weeks of that action.

For some, when the axe has fallen, the legal route is the only option. However, often, the law does not provide an effective remedy and pursuing legal claims can be fraught with difficulty. Far better, wherever possible, is the trade union defence. Where the Union is strong and active, employers think twice before attacking the working conditions of employees. Where they attempt to do so, they can often be defeated by a resolute collective response as NASUWT members have demonstrated time and again. This is why good, knowledgeable and active NASUWT Representatives play a crucial role in defending working conditions.

The NASUWT Representative can do two things:

- firstly, build up the size of the union group in the school/college by active recruitment. A large union group is better placed to resist unwelcome change than a small group;
- secondly, maintain the morale and collective sense of the membership by ensuring that they are well informed, well represented and encouraged to participate in the Local Association and school/college activities of the NASUWT.

This is why teachers must belong to a strong trade union so that they can act collectively to protect their job security.

Any teacher contemplating taking on duties other than those specified in the *STPCD*, or taking on a fixed-term contract, or who has any other concerns, should consult the Local Association Secretary first.

Cover

With effect from 1 September 2009, the provisions of the *STPCD* on cover changed to a provision that teachers may only be required to cover rarely. Every school should have in place a clear policy and 'robust system' that does not require teachers or the headteacher to provide cover other than rarely. A robust system is one that delivers this contractual entitlement and would be expected to deal with all foreseeable events, but would not be expected to deal with unforeseeable events. When devising strategies to implement 'rarely cover', schools should bear in mind that 'rarely' does not mean 'never'.

Though some schools have made good progress towards the achievement of this objective and have already reached a position where their teachers and headteachers only cover rarely, many still have a long way to go, as evidence from surveys illustrates.

Detailed guidance on the implementation of the rarely cover provisions in the *STPCD* can be found on the NASUWT website under 'Pay, Pensions and Conditions'.

NASUWT Representatives should be aware that these conditions of service provisions are currently subject to national action instructions, and reference should be made to those instructions before advice is given to members or before entering into any negotiations on them.

Further Information

*Rarely Cover Survey
(NASUWT)*

Disciplinary Action

Members facing disciplinary action may approach NASUWT Representatives for assistance. **The Local Association Secretary is always there for advice and should always be informed, if any member is anticipating or facing disciplinary action. Allegations of 'gross misconduct' should be referred to the appropriate Regional Centre immediately as this could result in dismissal.**

All schools must have a written Disciplinary Procedure that has been adopted by the governing body. All employees must have access to this procedure.

- An informal reprimand or telling-off is not part of a formal procedure and should not be recorded.
- Formal procedures generally have a number of stages, ranging from an oral warning (which is recorded) up to a final written warning or even summary dismissal. It is vital that Representatives ascertain as soon as possible the stage of the procedure being invoked.
- Formal warnings must be time limited (usually 6 or 12 months, depending on the severity) – a member who has been disciplined should request sight of their personnel file to see that any expired record has been expunged.
- Members should be advised not to submit any written statement until the Local Association Secretary has been consulted.
- Disciplinary Procedures must allow members facing discipline to be accompanied by a trade union representative or another worker. In the early stages of the procedure, this may be the NASUWT Representative, although the Local Association Secretary must be consulted first. The law requires any trade union representative participating in disciplinary procedures to have special accreditation from their trade union. (Accreditation is gained through attendance at appropriate NASUWT training courses.)
- The task of the NASUWT Representative is, first and foremost, to ensure that the member gets all her/his entitlements under the procedure and that the procedure is adhered to closely. NASUWT Representatives should make a careful note of everything that happens in any hearing they attend.
- Employers should follow the ACAS Code of Practice on Discipline and Grievance, which sets out good practice. This includes informing the employee in writing of the issue, holding a meeting to discuss the problem, at which the

Further Information

Acas Code of Practice on Disciplinary and Grievance Procedures (2009):
www.acas.org.uk

NASUWT Casework Code of Practice The Data Protection Act allows individuals to see any personal information about them held on file (see Capability)

employee has a statutory right to be accompanied, by a trade Union representative or another worker, and providing the employee with an opportunity to appeal the outcome.

(Note: the Employment Act 2002 (Dispute Resolution) Regulations 2004 which set out a statutory three-step process were repealed in 2009.)

A failure to follow the Code does not, in itself, make the employer liable to legal proceedings. However, ETs will take adherence to the Code into account. An unreasonable failure to comply with the Code by either party may result in the adjustment of any ET award by up to 25 per cent.

NB. The Code does not apply to redundancies or the non-renewal of fixed-term contracts.

Disciplinary procedures apply to matters of conduct; if a teacher's competence is being questioned, this should be dealt with under an agreed capability procedure. Refer to the section on Capability.

Disclosure and Barring Service

The Criminal Records Bureau (CRB) formerly had responsibility for conducting criminal record checks of those seeking employment and voluntary work with children under the age of 18 and/or vulnerable adults.

On 1 December 2012, the CRB merged with the Independent Safeguarding Authority to form a new non-departmental public body called the Disclosure and Barring Service (DBS), covering England and Wales. The CRB has ceased to exist.

The new DBS combines the criminal records disclosure responsibilities of the CRB with an independent barring function, which was formerly the responsibility of the ISA. In practice, therefore, the functionalities of the DBS remain the same.

Criminal records checks are now commonly referred to as DBS checks.

Sources of information

The main source of the DBS's information is the Police National Computer (PNC), which contains any convictions, cautions, reprimands and warnings in England and Wales. It also can contain 'non-conviction' or 'approved' information, also referred to as 'soft information'. In addition to this, the DBS maintains the barred lists of those individuals considered unsuitable to work with children and/or vulnerable adults and will check against these lists where appropriate.

Enhanced Disclosure

The Enhanced Disclosure is the highest level of check provided by the DBS, available to anyone involved in regularly caring for, training, supervising or being in sole charge of children or vulnerable adults. The Enhanced DBS Disclosure is mandatory for all new appointees to the school workforce, including caretakers, lunchtime supervisors and school administrative staff.

The Enhanced DBS Disclosure will reveal:

- whether the person is banned from working with children because s/he is included on the barred list of those persons considered unsuitable to work with children;
- details of any spent and unspent convictions as well as cautions, warnings and reprimands held at a national level by the police;

Further Information

The disclosure and Barring Service
www.homeoffice.gov.uk/agencies-public-bodies/dbs

- non-conviction/approved information held on local police records that the Chief Police Officer determines is relevant to the post the person has applied for.

The current position is that a new DBS Disclosure is not required when someone moves school, local authority or further education (FE) college. A new Disclosure is only required for newly appointed staff. Newly appointed staff means anyone who within the three months before her/his appointment has not worked in:

- a school in England in a post that brought him or her into regular contact with children or any post they were appointed to since 12 May 2006;
- an FE college in England in a position that involved the provision of education and regularly caring for, training, supervising or being in sole charge of children or young people under the age of 18.

The position is the same in Wales, although it is important to note that currently, a teacher's service undertaken in England is not portable when applying for a position in a Welsh school or FE college. Similarly, a Welsh teacher's service is not portable when applying for a position in an English school or FE college.

Supply teachers who are on the books of more than one agency at the same time need not be asked to obtain a separate Enhanced Disclosure by each agency. On registering with the first agency, supply teachers should complete a DBS check and this should then be verified with any second or subsequent agencies the supply teacher registers with. If the Disclosure includes any information, then the second agency will need to seek the individual's consent and get the agency's copy of the disclosure so it can be transferred to any school or FE college to which they supply the individual.

Supply teachers will be required to apply for an Enhanced Disclosure by the supply agency every three years, unless the teacher takes a break of more than three months (see above) or there is cause for concern.

Protection of Freedoms Act 2012

As part of the Coalition Government's review of safeguarding measures, a number of changes were enacted by the Protection of Freedoms Act 2012. This includes a more rigorous 'relevancy' test to be applied by the police when determining whether or not to disclose 'non-conviction' information on a Disclosure. This test has altered from information which the police believe 'might be relevant' to information that is 'reasonably believed to be relevant' to the post applied for and therefore whether it ought to be disclosed.

In practice, as the decision to disclose non-conviction information is still based on the judgment of the relevant police

Safeguarding Children and Safer Recruitment in Education (2007)
www.education.gov.uk
 (due for revision and updating during 2013)

www.direct.gov.uk/en/Employment

constabulary, it is likely to remain difficult to successfully challenge the disclosure of non-conviction information, unless it is factually inaccurate or there are strong grounds to argue the information is not relevant to the post applied for.

A further change has been the appointment of an Independent Monitor (IM) who individuals can appeal to regarding the content of a Disclosure, if a dispute cannot be successfully resolved. The IM will conduct an independent review and if the dispute is upheld, the IM will direct that a revised certificate be issued.

If a member believes the information contained in her/his Enhanced Disclosure is inaccurate or irrelevant, s/he should contact their Regional Centre. A copy of the Disclosure will be required. In the first instance, it is likely the member will have to engage with DBS Disputes process within three months of the date of the Disclosure. Further details can be obtained from www.homeoffice.gov.uk/agencies-public-bodies/dbs/contact-us1/disputes.

The review of the safeguarding and criminal records system, which gave rise to the changes incorporated into the Protection of Freedoms Act 2012, also recommended that criminal record checks should be portable (transferable) between positions within the same employment sector.

The Act provides for the portability of Disclosure Certificates through an 'Update Service'. This will come into operation in early 2013. The service, operated by the DBS, will allow employers to check whether any new information has come to light since the date of the last Disclosure to determine whether or not a new Disclosure Certificate is required. However, it will be dependent upon an individual subscribing to the service, except for those undertaking volunteering, to whom it will be free.

In spring 2013, the DBS will also introduce a 'single certificate' to be issued to applicants only, rather than directly to the employer. This should enhance the ability for an applicant to dispute any information on a certificate they do not believe is accurate, relevant and ought not to be disclosed, before they share it with others to make a decision on their suitability to work with children and/or vulnerable adults.

Confidentiality

It is a criminal offence to make an unauthorised disclosure of information in an Enhanced Disclosure. However, information can be passed from an LA to a school's governing body pursuant to their duties.

The former CRB drew up a Code of Practice that provides guidance on the handling of disclosure information. Organisations and individuals who use or receive Enhanced

Disclosure information must comply with this. Information must be handled and stored accordingly.

VETTING AND BARRING

The ISA formerly had responsibility for taking barring decisions to prevent unsuitable people from working or volunteering with children (those under 18) and/or vulnerable adults.

From 1 December 2012, the ISA merged with the CRB to form a new non-departmental public body called the Disclosure and Barring Service. The ISA has ceased to exist and the DBS now undertakes the barring functions.

The former List 99, Protection of Children Act (PoCA), Protection of Vulnerable Adults (PoVA) and Disqualification Orders regimes were replaced with a single list of those barred from working with children and a separate but aligned list of those barred from working with vulnerable adults, which is now administered and maintained by the DBS.

The Coalition Government commissioned a review of the proposed Vetting and Barring Scheme (VBS), as introduced by the former Labour Government, with a view to 'scaling it back to common-sense levels, to ensure fair and proportionate regulation of those who want to work with vulnerable groups'.

Consequently, the proposal to introduce a registration element of the VBS has been abolished. There is no requirement for those working or volunteering with vulnerable groups to register with the DBS and be subject to continuous monitoring, as was intended under the original scheme.

In addition, the definition of 'Regulated Activity' has also been significantly narrowed and this was enacted by the Protection of Freedoms Act 2012. Some activity which was previously classed as 'regulated activity' is no longer classed as such if it is reasonably supervised. Statutory guidance on reasonable supervision is available.

However, the safeguarding provisions that were introduced in October 2009 under the Safeguarding Vulnerable Groups Act 2006 remain in force. Primarily, these are:

- a person who is barred from working with children or vulnerable adults will be breaking the law if they work or volunteer, or try to work or volunteer, with those groups;
- an organisation that knowingly employs someone who is barred to work with those groups will also be breaking the law;
- if a member of staff who works with children and/or vulnerable adults is dismissed or a volunteer is removed because they have harmed a child or vulnerable adult, or would have done so if they had not left, there is a statutory duty on the employer/organisation to make a referral to the DBS.

A referral will also be made where an individual has received a caution or conviction for a relevant offence.

Matters that are not child protection-related are referred to the relevant regulatory body, in the case of teachers, now the Teaching Agency in England, which superseded the General Teaching Council in April 2012. The General Teaching Council for Wales continues to operate.

Further Information

Special Educational Needs and Disability Act 2001

www.legislation.gov.uk

School trips and outdoor learning activities: Tackling the health and safety myths

www.hse.gov.uk/services/education/school-trips.pdf
(HSE)

England

DfE guidance

www.education.gov.uk/aboutdfe/advice/f00191759/departmentaladvice-on-health-and-safety-for-schools

Learning Outside the Classroom website
www.lotc.org.uk

Outdoor Education Advisers' Panel (OEAP) www.oeap.info

Educational Visits and Learning Outside the Classroom

When they are properly organised and relevant to the curriculum, educational visits and Learning Outside the Classroom (LOtC) activities can enable pupils to be more engaged and enthusiastic learners.

Because of the great personal and professional risks involved, members should always be advised not to participate in visits and journeys that are non-contractual, do not have clear educational outcomes and do not require the exercise of the teacher's professional skills and judgement. If members ignore this advice, then every effort should be made to minimise the risk.

All LOtC activities must be approved by the school in accordance with local procedures. Governing bodies of all types of school should ensure that the visit has a specific and stated objective and that the headteacher/principal shows how arrangements comply with all relevant regulations and guidelines, including the school's own health and safety policy and, where applicable, the LA's, and that the headteacher/principal/group leader reports back after the visit. It is good practice for each school to have an Educational Visits Co-ordinator (EVC). The role of the EVC does not require the professional skills and judgement of a qualified teacher.

Headteachers/principals should ensure that visits comply with regulations and guidelines provided by the LA or governing body and the school's own health and safety policy. Headteachers/principals should ensure that the group leader is competent to monitor the risks throughout the visit, that appropriate risk assessments have been completed and that adequate safety measures are in place. Appropriate risk assessments must be undertaken for all educational visits and LOtC activities. Risk assessments should only be undertaken by legally competent, appropriately qualified and experienced persons.

EVCs should satisfy themselves that the following points have been covered.

- All supervisory duties must be carried out with the greatest of rigour. Courts expect teachers to exercise a greater degree of care than would be expected of a careful parent and take the view that teachers accompanying the school party carry ultimate responsibility.

- EVCs must be confident that their own training, qualifications and experience and that of other staff are adequate to meet the varied demands of the proposed visit.
- EVCs must be able to demonstrate that an adequate risk assessment of each proposed activity has been carried out in advance and that all reasonable steps to eliminate foreseeable dangers have been taken.
- EVCs must ensure, in advance, that they have written confirmation that they are conducting the activity on behalf of the employer and that the employer carries sufficient insurance to cover the team leader and other staff against all claims. EVCs should satisfy themselves that the terms of such insurance cover have been checked.
- All staff should strictly follow all relevant government guidance and guidance provided by the employer, LA or governing body/board policy and guidance, as well as the advice given by the NASUWT.
- EVCs should visit the location of the proposed visit in advance to assess the likely risks, or be satisfied that adequate risk assessments have been undertaken by a competent person, preferably in the LOfC Quality Badge scheme.
- EVCs must ensure that the special educational needs (SEN) (including behavioural problems) and the medical needs of children have been properly taken into account. EVCs must have the final decision on the inclusion of any pupils whose potential behaviour could pose a risk to themselves or others, or whose medical needs could place an unacceptable burden of responsibility on accompanying staff. A risk assessment of violent and abusive behaviour must be undertaken where there is the potential of harm to others. Members need to be aware that such decisions may be subject to provisions within the SEN and disability legislation.
- Where children are to be placed in the care of other adults, EVCs must ensure that proper child protection issues have been addressed by the employer, including appropriate DBS checks.
- EVCs must satisfy themselves that all adults in the party are fit persons to be in charge of children and that they are fully informed about the roles they are expected to fulfil and have received appropriate training.
- All teachers in a party must remain aware of the great increase in allegations of child abuse being made against themselves and others and must not place themselves in the position of being alone with a child.

- Any member who is not satisfied with the adequacy of the arrangements for a visit with which they are involved should report their misgivings to the EVC in the first instance and to their Local Association Secretary and their employer if matters are not satisfactorily resolved.

Directed time

- All LOtC activities should be counted against directed time, except where additional payments are made to a teacher for out-of-school-hours learning activities.
- Adequate staff cover, which does not place a burden on teaching staff, should be a precondition of an educational visit or journey taking place.

Use of teachers' own vehicles

Members should be advised that they should not use their own vehicles to transport pupils, for example, to events or for medical treatment. Such practice makes a teacher vulnerable to the risk of:

- malicious allegations; and
- serious legal repercussions if, in the event of an accident, their motor insurance does not have the appropriate cover.

Learning Outside the Classroom Quality Badge

In England, the NASUWT worked with the Department for Children, Schools and Families (DCSF) (now the DfE) to improve the quality and safety of educational visits and learning outside the classroom. Progress was made on all of the issues the Union raised.

Health and safety with regard to LOtC is of fundamental importance to schools. The LOtC Quality Badge, launched in October 2008, represents an important step towards minimising the risk of LOtC activities and improving schools' access to high quality LOtC providers. The Quality Badge enables schools to identify providers who are reputable and manage risks appropriately.

Schools often raise the administrative burdens associated with planning LOtC activities. An LOtC 'Out and About' package has also been developed, which is intended to be easy to use, will save staff time and cut unnecessary paperwork when planning and organising LOtC activities

Government guidance

The *Health & Safety: Department for Education Advice on Legal Duties and Powers for Local Authorities, Head Teachers, Staff and Governing Bodies* was issued by the DfE in August 2011. It replaced a number of guidance documents on health, safety and security in schools, including *Health and Safety: Responsibilities and Powers (2001)*, *Health and Safety of Pupils on Educational Visits (HASPEV 1998)* and the three

supplementary guides published in 2002 by the Department for Education and Skills (DfES) (now the DfE). HSE has also issued a statement on *School trips and outdoor learning activities: Tackling the health and safety myths*

The NASUWT believes that the DfE decision to scrap more than 140 pages of health and safety guidance for schools is reckless and could leave teachers more vulnerable to litigation where schools do not have appropriate procedures in place and operate a sensible approach to risk management to ensure the health, safety and welfare of both staff and pupils on LOTC activities.

Government guidance in Northern Ireland, Scotland and Wales remains unaffected.

Further Information

Check the NASUWT Website for further Updated information

NASUWT Publications:

- *Prejudice-related Bullying*
- *Flexible Working*
- *Maternity, Paternity*
- *Tackling Islamophobia*
- *Behaviour Management and the Implications of the Disability Discrimination Act*
- *Tackling Homophobic Bullying*
- *Homophobic Bullying Card*

Useful links:

- *Equality and Human Rights Commission*
www.equalityhumanrights.com
- *TUC equality website: www.tuc.org.uk/equality*
- *www.worksmart.org.uk*

Equal Opportunities

The NASUWT is committed to challenging discrimination, inequality and intolerance and recognises that schools/colleges play an essential role in this work. The Union has produced advice and information for members in respect of a wide range of equality issues. Many of these publications are designed to provide practical advice to ensure that equality is embedded in all areas of school life.

NASUWT Representatives are advised to ensure that

- their school/college has an equal opportunities policy and that this complies with NASUWT advice/guidance;
- they are consulted on the development and implementation of the equal opportunities policy prior to adoption by the governing body;
- their school/college undertakes regular monitoring and reviews of the policy with a view to identifying and dealing with any trends or issues of concern.

Governing bodies of schools, colleges and other education institutions have responsibilities for developing and maintaining agreed equal opportunities policies to ensure that all staff, pupils and parents/carers are treated in a fair and non-discriminatory manner. The equal opportunities policy should be disseminated to all staff, pupils at the school and parents/carers. All staff should receive training in respect of the policy so that they are familiar with it and understand what is expected of them. Governing bodies are required to comply with a number of legislative obligations in respect of equal opportunities practice, which are outlined below.

Equality Act 2010

The Equality Act, which came into force in October 2010, harmonises and replaces the following legislation: the Equal Pay Act 1970; Sex Discrimination Act 1975; Race Relations Act 1976; Disability Discrimination Act 1995; Employment Equality (Religion or Belief) Regulations 2003; Employment Equality (Sexual Orientation) Regulations 2003; Employment Equality (Age) Regulations 2006; Part 2, Equality Act 2006 and the Equality Act (Sexual Orientation) Regulations 2007. (The Equality Act 2006, in so far as it relates to the constitution and operation of the Equality and Human Rights Commission (EHRC), remains in force.)

Underpinning the 2010 Act are the key concepts of 'protected characteristics'. The nine protected characteristics, on grounds of which it is illegal to discriminate, are:

- age;
- disability;
- gender reassignment;

- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

Employees should therefore be protected by their employer from the following actions:

- direct discrimination – acts of overt discrimination to a person’s detriment, such as denying them promotion on the basis of a protected characteristic;
- indirect discrimination – a discriminatory provision, criterion or characteristic, such as a promotion requirement or working pattern that cannot be objectively justified;
- discrimination arising from disability – for instance, a capability procedure that arises from a person’s disability-related absences;
- harassment – acts of unwanted conduct that threaten or violate a person’s dignity, such as making unreasonable demands, bullying or ‘stalking’;
- victimisation – particularly after making a complaint about discrimination or lodging a claim at an ET;
- a failure to make reasonable adjustments in order to accommodate a person’s disability.

This duty of protection also includes the harassment of an employee by a third party; for instance, a contractor carrying out work on a school site who abuses a member of staff.

The NASUWT believes all schools and colleges should audit and review all of their existing policies and procedures to ensure that they comply with the Equality Act 2010 as well as with the relevant education codes of practice and guidance issued by the Equality and Human Rights Commission in England, Scotland and Wales.

From April 2011, the Act also introduced a single Public Sector Equality Duty (PSED), which applies to schools. Maintained schools, including pupil referral units (PRUs) (in England) and academies, are public authorities and will be subject to the public sector Equality Duty. Schools have obligations under the Act in three aspects of their activities: as employers; as bodies that carry out public functions; and as service providers. In summary, those subject to the general quality duty must, in the exercise of their functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and those who do not.

Existing policies, procedures or practices should be evaluated to ensure that they comply with the PSED and GED.

Special Educational Needs and Disability Act 2001

It is unlawful for schools, colleges and LAs to discriminate against disabled pupils, students and adult learners in the provision of their education. The Special Educational Needs and Disability Act was introduced to strengthen the legal framework that underpins equality of opportunity for disabled pupils and students in their access to education and applies to current or prospective pupils.

Under the provisions of the Act, the governing body of a school maintained by the LA is the 'responsible body' and is therefore ultimately liable for the actions of all its employees and anyone working within the authority of the school. The duties cover admissions, education and associated services and exclusions. All schools/colleges should have received a copy of the relevant NASUWT Code of Practice illustrating the new duties. NASUWT Representatives should make themselves familiar with the provisions of the Code of Practice alongside the NASUWT guidance, which is available from the NASUWT Headquarters.

Equality and Human Rights Commission (EHRC)

The EHRC, a statutory body established by the Equality Act 2006, brings together the work of the three previous commissions: the Commissions for Racial Equality (CRE), the Disability Rights Commission (DRC) and the Equal Opportunities Commission (EOC). It enforces equality legislation on age, disability and health, gender, race, religion or belief, sexual orientation or trans status and encourages compliance with the Human Rights Act 1998.

NASUWT Representatives should ensure that members are encouraged to record and report all forms of bullying and harassment, regardless of nature, to school management so that effective action can be taken. All reported cases of discrimination should be referred to the Local Association Secretary or Regional Centre.

Implications for NASUWT Representatives

As well as ensuring that their local school/college/service complies with the provisions listed above, NASUWT Representatives may be approached by individual members for advice. The NASUWT Casework Code of Practice must be followed and members should be advised to keep diary records of incidents and to pursue issues via the appropriate school or college policy. If an NASUWT member raises an issue of

possible discrimination on any of the nine protected characteristics contained in the 2010 Act, NASUWT Representatives are advised to seek advice from the Local Association Secretary or the NASUWT Regional Centre.

NASUWT Representatives should show members that the NASUWT is a leader on equality issues. This can be done by keeping them up to date with the equalities work of the Union and by promoting the Union's successful Consultation Conferences for under-represented members. Further information can be found on the Union's website. Local Associations have elected Equalities Officers who will also be able to give you up to date information on equalities issues.

NASUWT Representatives should note that much of the above legislation also applies to the NASUWT as a trade union/employer organisation. In many cases, it is unlawful to discriminate against a person by refusing or deliberately omitting to accept an application for membership on grounds of their gender, ethnic origin, marital status, sexuality or disability.

Equal Pay

School governors must abide by the requirements of equal pay which is now contained within the Equality Act 2010, pt 5, ch 3, which is headed 'Equality of Terms' and largely replicates the Equal Pay Act 1970.

School governing bodies also have a written pay policy that ensures that similar posts carrying similar levels of responsibility are rewarded equally and all staff are treated equitably. The NASUWT has published a model policy agreed by the majority of teacher unions and the DfE.

The union representative does have the right to request information necessary to monitor the effects of pay and employment practices. The NASUWT Representative should know the school salary structure.

A complainant could refer to a similar post in another LA school as a comparator.

NASUWT Representatives should refer any case of suspected pay discrimination to their Local Association Secretary who will refer the case as appropriate. An equal pay questionnaire to help assess a claim is available from Negotiating Secretaries or NASUWT Headquarters.

Family Leave

- Legislation gives employees the right to maternity, paternity, adoption, parental and dependant leave. See page 76 for rights to maternity, paternity and adoption leave.
- There is a qualifying period of one year's continuous employment with the same employer before rights to parental leave can be exercised.
- Employees have a right to 13 weeks' unpaid parental leave to care for a natural or adopted child in the first five years of the child's life (or the first five years of placement).
- If the child is disabled (e.g. where the child is receiving a disability living allowance), employees have a right to 18 weeks' unpaid leave that can be taken up to the child's 18th birthday.
- Unless there is an agreement to the contrary any leave must be taken in blocks of one week, except for parents of disabled children who can take the leave in blocks of a day.
- A maximum of four weeks can be taken in one year in respect of each child.
- Complaints can be made to an ET if an employer obstructs the taking of parental leave. Employees are protected against victimisation for exercising their rights.

Time off for dependants or family emergencies

- All employees have a legal right to take a reasonable amount of unpaid time off to deal with an emergency involving a dependant.
- A 'dependant' includes a spouse, child, parent, someone living in the same house who is not an employee or lodger and anyone who 'reasonably relies' on the employee.
- Unpaid time off can be taken to take action that is necessary in circumstances where:
 - a dependant falls ill, gives birth or is injured or assaulted;
 - arrangements have to be made to care for a dependant who is ill or injured;
 - care arrangements have broken down;
 - there is a problem at school.
- There may be local agreements that provide more than the minimum requirements in these circumstances, e.g. paid time off.

Employees have to tell their employers as soon as possible why and for how long they will be absent. A complaint can be made to an ET if the employer unreasonably refuses the time off.

Further Information

The NASUWT offers a School Governors course in the National Trade Union Education and Training (TUET) programme for members

Governing Bodies

School governing bodies derive their authority from legislation and from the 'Instrument of Government' appertaining to their school. NASUWT Representatives need to understand the powers of governing bodies in relation to teaching staff.

In community schools

The LA remains the employer, but governing bodies will decide:

- the spending of the school's budget;
- staffing structures (subject to the STPCD);
- the number of teachers (and other staff) employed;
- recruitment and dismissal of staff;
- salary levels and allowances (subject to the STPCD);
- staff discipline and grievance procedures.

In addition, governing bodies must have policies on equal opportunities, health and safety, performance management and pay.

Voluntary aided schools

Voluntary aided (VA) school governors are employers in their own right. They have additional duties, including additional health and safety responsibilities as the employer. Governors of the LA and VA schools often adopt existing LA policies and procedures.

Foundation schools, including trust schools

Governing bodies are the employers and, therefore, in addition to the powers described above, have more wide-ranging powers and responsibilities such as:

- the spending of the whole school budget;
- complete control over numbers of staff employed and pay levels (within the STPCD unless the school has written permission from the Secretary of State for Education to opt out of national arrangements using the power to innovate);
- health and safety policy and arrangements

Academies

Academies are the employers and have even more wide-ranging powers than foundation schools, including the power to employ teachers on terms and conditions outside of the STPCD, unless they transfer from a maintained school that is being replaced by the academy, in line with the TUPE regulations.

Consultation and negotiation

NASUWT Representatives should try to have established proper machinery for consultation/negotiation on the model recommended by the NASUWT (see Appendix 1). Teachers who

are staff governors are equal in most respects to all other members of a governing body. NASUWT members should be encouraged to stand for election.

With effect from 1 September 2012, new regulations came into force in respect of school governance:

- the regulations allow governing bodies constituted on or after 1 September 2012 to have a minimum size of seven members, rather than nine as under the Constitution Regulations 2007;
- the governing body should ensure that it has the skills needed to conduct the governing body's business effectively;
- the method of appointing the LA governor has been amended;
- a new definition of co-opted governor has been introduced; and
- the role of sponsor governor has been removed.

The regulations, and DfE guidance, cover four aspects of the arrangements for the constitution of governing bodies:

- the description of the different categories of governor;
- how governing bodies are to be constituted;
- terms of office, removal and disqualification of governors; and
- instruments of government.

Further Information

Acas Code of Practice on Disciplinary and Grievance Procedures (2009)

www.acas.org.uk

NASUWT Code of Practice

Grievance

Every governing body must, by law, establish written procedures for giving staff opportunities for seeking redress of any grievances relating to their employment.

- Individual or collective grievances are best dealt with informally, as close as possible to the point of origin by a direct approach to the other employee, or discussion with head of department or other senior person involved. Those concerned should also have discussions with the headteacher if necessary.
- In the case of a grievance against a governing body involving no other employee, a direct approach should be made to the chair of governors.
- The policy should state time limits for consultations to take place.
- If the matter is not resolved by the informal procedure, a written notice of grievance should be submitted to the headteacher and any other employee(s) concerned. The headteacher should make a written report to the personnel committee of the governing body.
- If the matter is still not resolved, the teacher should have the right to put the case to an Appeals Committee, whose decision would be binding on the parties.
- The NASUWT Representative should ensure that all parties understand their roles and duties under the procedure and that the member's complaint is properly addressed.
- NASUWT Representatives should always consult the Local Association Secretary before advising members to embark on the grievance procedure.
- Employers and employees should follow the ACAS Code of Practice on Discipline and Grievance, which sets out good practice. This includes the employee informing the employer in writing of the issue, attending a meeting with the employer to discuss the grievance, at which the employee has a statutory right to be accompanied by a trade Union representative or another worker, and the employee should be provided with an opportunity to appeal if the grievance has not been satisfactorily resolved.

(Note the Employment Act 2002 (Dispute Resolution) Regulations 2004, which set out a statutory three-step process, were repealed in 2009.)

A failure to follow the Code does not, in itself, make the employer liable to legal proceedings. However, ETs will take the Code into account. An unreasonable failure to comply with the

Code by either party may result in the adjustment of any ET award by up to 25 per cent.

NB. The Code does not apply to grievances raised on behalf of two or more employees.

The law requires any trade union representative representing members in disciplinary or grievance procedures to have special accreditation. (Accreditation is gained through attendance at appropriate NASUWT training courses.)

Further Information

Starting Out – a quick guide for new teachers (NASUWT 2012)

Induction for newly qualified teachers (England) (DFE)

Induction

- Teachers who obtained qualified teachers status (QTS) after 7 May 1999 (England) and 1 September 2003 (Wales) are required to complete a satisfactory induction period of one academic year.
- In most circumstances a newly qualified teacher must complete an induction period equivalent to not less than three school terms although it is possible for some newly qualified teachers to complete induction in a shorter period. A newly qualified teacher may complete the induction period through service in more than one school.
- The school should not appoint a newly qualified teacher unless it is eligible to do so under the terms of the Induction Regulations and it is able to provide an adequate programme of induction support and review.
- The NASUWT Representative should be consulted on the operation of the induction programme.
- The induction programme should be adequately and appropriately funded within the school. It should not increase the workload of existing school staff.
- The newly qualified teacher is entitled to a ten per cent reduction in the normal teaching load of other staff in the school, which should not be absorbed by other staff. This time is to be used for induction-related development, for example, classroom observation of more experienced staff.
- Schools must identify someone to act as the induction tutor for the newly qualified teacher. Such a role is an additional responsibility and should attract additional payment. There should be a job description and specific training provided during the school day.
- Adequate supply cover should be provided to enable the release of the newly qualified teacher and induction tutor for the purpose of reviewing progress and professional development.
- Northern Ireland, Scotland, Guernsey, Jersey, Isle of Man and Gibraltar have their own induction arrangements, which will be accepted in England and Wales.
- It should be noted that revised arrangements for the induction of newly qualified teachers were introduced in September 2012. NASUWT Representatives should ensure that they are familiar with the principal changes to these arrangements, further details of which are set out in the NASUWT publication *Starting Out*. The Union will ensure that NASUWT Representatives are given further information and advice in developments in this area as soon as it becomes available.

Inspections

- The NASUWT remains committed to protecting members from unnecessary demands on their workload. Inspection is one area of concern, but it should be noted that Ofsted's framework for inspecting schools in England makes clear that Ofsted does not expect nor require teachers to engage in extra work of any sort because of a forthcoming inspection.

Before the Inspection

- There is a handbook for inspecting each type of school, published by Ofsted. This gives detailed descriptions of the relevant procedures and duties for inspectors and schools and should be used to inform members of their rights.

In England, self-evaluation is a key aspect of the inspection process. However, from July 2011 the provision of a template self-evaluation form (SEF) was discontinued in England. The format and content of self-evaluation reports is now entirely a matter for schools.

Wherever possible, if information required by inspectors is available on the school's website, inspectors themselves should access this material. The inspectors cannot ask for information other than that listed in the framework. On no account should inspectors ask for any particular form of lesson planning.

During the Inspection

- Inspectors work to a Code of Conduct, the practical implications of which are, according to Ofsted:
 - always respect the presence of teachers and other staff, for example, when entering or leaving classrooms;
 - do not normally observe teachers or teaching assistants for more than about half of the teaching day, and never more than three quarters;
 - only make judgements on teaching where it is observed for a sufficient time to gather evidence;
 - offer feedback on teaching, explain the reasons for their judgements and be helpful in identifying where improvement is needed; and
 - do **not** expect staff to create additional paperwork specifically for the inspection.
- During the inspection, inspectors must offer oral feedback to teachers and other staff about the work they see in lessons. Judgement must be clear, with strengths and weaknesses fully explained. Ofsted's own framework states: 'constructive dialogue between inspectors and staff, particularly between the registered inspector and the

headteacher, is essential.' Teachers are no longer graded on their classroom observation and current arrangements for inspection mean that many teachers will not be observed by inspection teams.

- Before the inspection ends, heads of department, co-ordinators or other team leaders should be briefed on the inspection findings in specific subject areas. In England, it should be noted that a revised inspection framework was introduced in January 2012. NASUWT Representatives will be given information and advice about the new framework during the Autumn of 2011.

After the Inspection

- Inspectors are required to make an oral report to the headteacher immediately following the inspection – any inconsistencies at this point must be raised.
- A full debriefing must then take place, at which any staff may be invited to attend, although this usually includes only the senior management team (SMT). This is another opportunity for staff to raise inconsistencies with the inspector.
- Where there are any issues where members feel they have been judged unfairly, the NASUWT Representative must report this to the Local Association Secretary.
- The final report must be completed within six calendar weeks of the inspection team leaving the school. The final prepublication draft should be sent to the school for checking after the feedback meetings. The school has five working days to comment on the draft. Factual errors must be corrected. Judgements in the report cannot be changed unless factual errors have a significant bearing on them.

Where the school is given a notice to improve, or is felt by an inspection team to require special measures, the NASUWT Representative should inform the Local Association Secretary immediately.

Job Descriptions

- Job descriptions should be kept as short as possible and, in particular, must not contain duties that do not require a teacher's professional skills or judgement, as per the provisions and guidance within the STPCD.
- Under these provisions, teachers should not routinely be required to undertake administrative and clerical tasks or invigilate external examinations and only provide cover rarely, in circumstances that are not foreseeable.
- Descriptions of existing jobs should reflect current duties and should not be used as a means of imposing a change in a teacher's role within the school.
- No job description should contain duties/responsibilities outside those set out in Part 10 of the STPCD. For most teachers, not all the duties listed are appropriate.
- Teachers **should not** write their own job description. Any proposed changes should be subject to further consultation.

There is no obligation for a teacher to sign her/his job description.

A suitable job description for a main scale/post-threshold teacher could read:

- name;
- title of post;
- to whom the teacher is responsible;
- a statement: 'Your duties and responsibilities are as contained in the *School Teachers' Pay and Conditions Document*';
- a responsibility holder (e.g. head of department) could have a further clause specifying the nature of the responsibility.
- **Governing bodies should ensure that similar posts carrying similar levels of responsibility are rewarded equally and that all staff are treated equitably (see Equal Pay, page 66).**

Further Information

A guide for new and expectant mothers who work (HSE)

Maternity leave and pay www.tuc.org.uk

Further advice booklets are available from the NASUWT on [Maternity and Adoption](#)

Maternity, Paternity and Adoption Leave

Teachers in maintained schools have overlapping rights to maternity leave under their contract of employment and under statutory provisions. These rights are a minimum and may be improved upon by local agreement.

Employees who are pregnant or nursing mothers have the right to a safe and healthy working environment in which they will not be required to do work that is potentially harmful to themselves or their child.

(More details are in the NASUWT Health and Safety Representatives' Handbook and Maternity advice booklet).

- **Teachers' Statutory Rights (from day one of employment):**
 - the right to paid time off for antenatal care;
 - the right to protection against dismissal, unfair selection for redundancy or detrimental treatment for any reason connected with pregnancy or childbirth;
 - the right to 52 weeks' maternity leave (including two weeks' compulsory leave following the birth).
- **Teachers' Statutory Rights (after qualifying period):**
 - the right to 39 weeks' paid maternity leave after 26 weeks' continuous employment with the same employer by the 15th week before the expected week of childbirth (six weeks at 90% pay and 33 weeks at statutory maternity pay (SMP)). The latter is paid in addition to occupational half pay if the periods overlap);
 - the right to 13 weeks' unpaid additional leave following the 39 weeks' paid leave, with a right to return to work at the end of that period;
 - two weeks' statutory paternity leave and pay at statutory paternity pay (SPP) per week (there may be a local agreement on paternity leave on full pay);
 - fathers or the partner of a mother have the right to Additional Paternity Leave. Eligible employees may take up to 26 weeks' Additional Paternity Leave within the first year of the child's life or placement for adoption provided that the person taking maternity leave has returned to work before using their full leave entitlement of 52 weeks. The statutory provisions allow the 39 weeks' entitlement to statutory pay to be shared between partners. Therefore SPP will be paid once the mother has returned to work;

- parental leave is an additional right, and can be taken immediately following maternity, adoption or paternity leave if you have one year's continuous service by the date on which you intend to take the leave. Thirteen weeks' unpaid leave can be taken up to the child's 5th birthday or 18th birthday if the child is disabled. If the child qualifies for disability living allowance, the parent is entitled to 18 weeks' unpaid parental leave;
- rights similar to maternity leave and pay are now available to one adoptive parent. The other adoptive parent can take paternity leave.
- **Teachers' Contractual Rights under the Burgundy Book:**
 - the right to paid occupational maternity leave for 18 weeks after one year of continuous service, assessed at the 11th week before the expected week of childbirth (four weeks' full pay, two weeks' 90% pay and 12 weeks' half pay) plus the 21 weeks' SMP and 13 weeks' unpaid leave;
 - the postnatal provisions of the occupational maternity scheme can be extended to an adoptive parent.

Pregnant workers must comply with a variety of requirements (mainly concerned with notification to employers) at various stages of the pregnancy and maternity leave in order to qualify for some benefits and protections. There is a condition in regard to the payment of the 12 weeks' half-pay element in that teachers must return to work for at least 13 weeks following their maternity (full or part time), otherwise they may be asked to repay the 12 weeks' half-pay element back.

Members who become pregnant should be advised to contact their Regional Centre for advice as soon as possible.

Medical Matters

Teachers' entitlement to sick pay and sick leave are covered elsewhere in this handbook. There are, however, a number of other medical queries that members may have and the following may be of help in answering them. In a maintained school:

- absence owing to injury sustained or disease contracted in the course of a teacher's duties shall not be reckoned against the teacher's entitlement to sick leave;
- a teacher absent because of the contraction of pulmonary tuberculosis is entitled to 12 months' full pay and a further period of full or half pay at the discretion of the employer;
- a teacher suspended from duty, either because of an infectious disease in the teacher's home or because of an infectious disease in the workplace that could be injurious to the teacher's health, is entitled to full pay during the course of the absence;
- where there is evidence that a teacher's medical condition may place pupils or the teacher at risk, the teacher may be suspended from duty;
- sick pay will not be paid to teachers sustaining injury during the course of playing sport as a profession.

Teachers working in academies, free schools and independent schools will need to refer to the relevant policies, procedures and contractual entitlements in operation at their school.

Teachers retiring prematurely because of ill health are subject to the ill-health retirement provisions of the Teachers' Pension Scheme (TPS).

Meetings

NASUWT Representatives often complain that many of the school-directed meetings that members are asked to attend are a waste of time. The STPCD recognises that meetings can be detrimental to a teacher's work/life balance. Representatives should attempt to ensure that:

- all after-school meetings appear on the year's calendar of events planned before the commencement of each academic year, as required by the STPCD, and that no new meetings are called, except in a genuine emergency;
- class teachers are not called upon to attend more than one management-organised meeting a week, that all meetings are justifiable and that where there is insufficient business, meetings are cancelled;
- no after-school meeting takes place in a week during which there is a parent consultation meeting planned;
- every after-school meeting has a published starting and finishing time (no longer than one hour) and that these are adhered to;
- all meetings are counted against the 1,265 hours of directed time within 195 days;
- all meetings have a published agenda, circulated in sufficient time to enable teachers to participate effectively in the business;
- meetings are confined to proper business. For example, no staff or department meeting should be engaged in determining teachers' conditions of service, including matters such as redundancy;
- for individual teachers, a reasonable balance is struck between the requirement for them to attend meetings and their other professional and domestic commitments. Particular attention should be paid to the STPCD provisions and guidance relating to part-time teachers in this respect.

Part-time teachers should not have a greater proportion of their directed time allocated outside of their normal sessions than full-time teachers.

NASUWT Representatives should be aware that these conditions of service provisions are now subject to national action instructions, and reference should be made to those instructions before advice is given to members or before entering into any negotiations on them.

Further Information

Minibus safety: A Code of Practice (RoSPA/CTA)

Driver Licensing for Minibuses

Minibuses and the Law

*Community Transport Association, Highbank, Halton Street, Hyde, Cheshire SK14 2NY
0161 351 1475
www.ctauk.org*

The CTA publishes essential information and advice on the complex issues of licensing, etc.

*DVLA:
www.dvla.gov.uk*

Driving the School or College Minibus and Transporting Pupils (NASUWT)

Minibuses

Health and Safety Representatives should advise members not to drive school minibuses due to the grave personal and professional risks associated with undertaking such duties, e.g. health and safety concerns. Driving is not part of a teacher's standard contractual duties and not an effective use of their professional skills and judgement.

Schools that have a Section 19 Minibus Permit (obtainable from LAs due to providing not-for-profit services, e.g. educational services and transporting pupils and teachers) may charge passengers a fare on a not-for-profit basis without complying with the full Passenger Carrying Vehicle (PCV) licence. However, drivers must not receive any payment other than out-of-pocket expenses when driving under a Section 19 permit. When driving under a Section 19 permit, members must adhere to any terms of the permit and should not, under any circumstances, consider taking a minibus to continental Europe.

Drivers who obtained their driving licence before 1 January 1997 are automatically licensed to drive Permit minibuses so long as they do not drive for 'hire or reward' or on a commercial basis, i.e. receive no payment other than out-of-pocket expenses and that they do not drive commercially. The entitlement is shown as D1 (not for hire or reward) on your photocard licence.

Drivers who passed their test after 1 January 1997 can only drive a minibus if they are over 21, have held a full licence for at least two years and receive no payment for driving other than expenses (hire or reward).

There are also restrictions regarding the weight of the vehicle (3.5 tonnes or 4.25 tonnes if carrying disabled passengers) and a restriction on towing a trailer.

It is possible for a teacher driving during 'directed time' to be deemed as driving commercially which can then be deemed as driving for hire or reward, contrary to the conditions of their licence. Therefore, it is possible that authorities may construe teachers to be driving unlawfully due to the ambiguity as to whether a school is a non-commercial body and whether remuneration for teaching can be deemed 'hire and reward'. It is possible therefore that teachers who rely on their automatic D1 (not for hire or reward) entitlement may in fact be driving illegally and leaving themselves vulnerable to fines, penalty points and possibly a driving ban.

The Union believes that if a teacher wishes to drive a school or college minibus, then they should acquire the appropriate training and skills by successfully undertaking the D1 minibus test and the recommended Minibus Driver Awareness Scheme (MiDAS) driver training. Members should be given the necessary

paid time off from work to do so. In addition, many LAs publish their own regulations and good practice guides relating to the use of minibuses. These must also be strictly adhered to. For further information, you should contact your LA.

The roadworthiness, safety and insurance status of the vehicle on the road is the responsibility of the driver. Failure to carry out the necessary checks before taking a vehicle on the road could absolve an employer from any vicarious liability in the event of an accident. You should check your school or college minibus or vehicle use policy.

Seat belts must, by law, be fitted to school buses. It is the driver's responsibility to ensure that all passengers are wearing the correct seat belt. The driver must also ensure that they are correctly licenced to drive and that the vehicle is correctly licensed, has a Ministry of Transport (MOT) test certificate, is correctly insured and maintained and has appropriate breakdown cover.

Members who ignore the advice not to drive school minibuses will need to exercise great caution in terms of the hours of work, including the driving, they undertake; the control of children being carried in the bus (a second, qualified, driver should assist); the condition of the vehicle; and the availability of safety devices. The driver assumes all the above-mentioned risks and liabilities, including the health and safety risks of passengers, when choosing to drive a minibus.

Drivers suffering from any health problems must inform the Driver and Vehicle Licensing Agency (DVLA). Permission to drive depends on the individual case, taking into account, for example, the nature and effect of any medication on the ability to drive.

Further Information

Briefing on Assessing Pupils' Progress (NASUWT)

Wolf Review of Vocational Education: Government Response (DfE)
www.education.gov.uk

NASUWT submission to the Wolf Review of Vocational Education (NASUWT)

NASUWT submission to the National Curriculum Review (NASUWT)

English Baccalaureate Survey Summary (NASUWT)

National Curriculum

The Primary Curriculum

England and Wales have separate curricula.

Each National Curriculum sets out specified, core curriculum subjects that must be taught to primary age children in state schools. However, there is a considerable degree of flexibility in the interpretation of the primary curriculum and teachers should be allowed the scope to make appropriate use of their professional discretion in determining approaches to teaching and learning. Teachers should not be expected to meet unreasonable demands in planning and delivering a curriculum.

The Coalition Government is reviewing the National Curriculum in England. A revised curriculum covering both primary and secondary schools will be provided to schools in September 2013 for implementation from September 2014. Schools should continue to implement the current curriculum until September 2014. NASUWT Representatives will need to monitor plans to respond to curriculum reforms. It will be important to ensure that teachers are involved in discussions and influence decisions about how the school responds to planned reforms.

Key Stages 1 and 2

There are no statutory time allocations for National Curriculum subjects. Although the Primary National Strategy does give strong recommendations for time allocations for daily literacy and numeracy lessons. It is up to each school to determine the amount of time needed for its children to cover the programmes of study successfully in all subjects.

Key Stages 3 and 4

National Curriculum programmes of study can be accessed at www.education.gov.uk/schools. It is essential that NASUWT Representatives monitor programmes of study and work to ensure that approaches adopted are non-bureaucratic and do not place additional planning and assessment requirements on teachers

14-19 Curriculum

14-19 reforms, introduced under the previous government, included the introduction of 14-19 Diplomas and a requirement for all schools and colleges to join consortia. The Coalition Government has removed the requirement for schools and colleges to work in partnership. Schools and colleges may continue to offer Diplomas but the planned entitlement to an offer of 17 Diploma lines of learning has been removed.

Curriculum and qualifications reforms mean that there are likely to be substantial changes to 14-19 education in the near future. NASUWT Representatives will need to monitor developments, particularly in relation to issues arising from changes to the

ways in which school performance tables are constructed and the impact of the introduction of the English Baccalaureate (EBacc) such as the closure of courses. Representatives will also need to be alert to policy developments in 14-19 education and refer to the NASUWT website and bulletins for up-to-date information.

Teaching and Learning – Assessment

At the earliest stage of their education, pupils' progress in England is monitored through the Early Years Foundation Stage Profile (EYFSP) – a statutory assessment that the NASUWT advises should serve as the sole record for the pupil, providing a report to parents and information for other teachers, the school and LA. This replaced baseline assessment in England in 2002. In relation to Key Stage 1, schools will only need to report the results of teacher assessment. The outcome of tests/tasks will be used to inform teacher assessment. The NASUWT's work with members continues to demonstrate that poorly managed moderation and evidence gathering by some LAs and schools can create significant workload and bureaucratic burdens.

It is essential that NASUWT Representatives in schools with pupils in Key Stage 1 monitor the impact of arrangements in place for statutory assessment at the end of the Key Stage. Problems or concerns should be reported to the appropriate Local Association Secretary without delay.

The NASUWT advises members that:

- tests, where used, should not be marked in teachers' own time;
- they should not be required to transfer results to optical mark reader (OMR) forms;
- all associated training and LA moderation should be scheduled within the school day.

The Key Stage 1 statutory tests and tasks were abolished in Wales in 2001 and replaced by externally moderated teacher assessment.

Key Stage 2 National Tests

All marking of Key Stage 2 National Tests in England is undertaken by external markers. Teachers should not:

- agree to carry out option tests, assessments or trials;
- complete the application forms requesting additional time for those pupils who require it;
- agree to any voluntary audit activities an LA might seek to introduce.

In Wales, considerable use is made of teacher assessment in statutory assessment at Key Stages 2 and 3 and it is essential that arrangements in place in individual schools are designed in a way that minimises workload burdens on teachers. The

school's internal assessment procedure should be a single, simple, integrated system that has been the subject of consultation with staff and the NASUWT. It should be capable of being accessed by support and administrative staff to enable them to extract data for monitoring and other appropriate purposes, including those associated with statutory assessment.

Assessing Pupils' Progress

Assessing Pupils' Progress (APP) is a nationally developed and standardised approach to assessment that seeks to provide a framework within which teachers can make judgements about the standard of pupils' work and plan future learning activities. While its use is no longer formally mandated by the DfE, it remains the basis for internal assessment processes in many schools.

The materials principally consist of APP Assessment Guidelines and Standards Files. The Assessment Guidelines set out the criteria for each National Curriculum level and are central to the operation of APP in practice. The Assessment Guidelines consist of sheets that allow for the assessment of pupils' work in relation to national standards and provide a recording format for the assessment criteria in each subject at each level.

The NASUWT is clear that ongoing assessment of pupils' work is an integral feature of effective teaching practice and that the APP materials, implemented effectively, have the potential to improve assessment practice in schools. However, the NASUWT continues to receive reports from members that, in some schools and LAs, implementation of APP is being undertaken in a way that undermines its potential to improve assessment practice and is leading to increased workload and bureaucratic burdens on teachers and headteachers. The Union has produced a dedicated briefing on APP, which is accessible through the NASUWT website and sets out steps that NASUWT Representatives should take to ensure effective use of APP in the school.

Further Information

Up-to-date information on teachers' pay scales is contained on the NASUWT website: www.nasuwt.org.uk

Crossing the Threshold – Guidance (NASUWT)

School Teachers' Pay and Conditions Document (DfE)

Pay Structure

The pay structure for qualified teachers in maintained schools in England and Wales comprises:

- a six-point pay spine (M1 to M6) for classroom teachers;
- a three-point upper pay range (U1 to U3) for those who cross the threshold;
- teaching and learning responsibility (TLR) payments;
- a recruitment payment or benefit that may be paid for up to three years;
- a retention payment or benefit that may be paid for up to three years and renewed in exceptional circumstances;
- minimum and maximum levels of SEN allowance;
- a five-point Advanced Skills Teacher (AST) pay range (selected from an 18-point spine);
- a minimum and maximum national pay rate for Excellent Teachers;
- a 43-point leadership spine on which assistant headteachers, deputy headteachers and headteachers will be placed.

There are separate pay scales for teachers working in inner London, outer London and the fringe area.

The NASUWT campaign for a collegiate, less hierarchical pay and promotion structure has been recognised in these pay arrangements.

Further Information

Members of the TPS can obtain an online estimate of their future pension benefits from www.teacherspensions.co.uk.

This is only a summary of the provisions of the TPS. For further information, visit the [Teachers' Pensions website](#), or contact [Teachers' Pensions](#) or your [NASUWT Local Association](#) or [Regional Centre](#).

Pensions

Full-time and part-time teachers are automatically entered into the TPS. Teachers will automatically become members on commencement of a contract of employment unless they opt out.

From April 2012, the Coalition Government introduced the first stage of contribution increases.

Scheme members for 2012/13 contribute as follows:

Salary	Percentage of salary to the TPS
Up to £14,999	6.4
£15,000 to £25,999	7.0
£26,000 to £31,999	7.3
£32,000 to £39,999	7.6
£40,000 to £74,999	8.0
£75,000 to £111,999	8.4
£112,000 and above	8.8

The contributions receive tax relief at the marginal rate.

This is the first stage of three stages of increases set to be implemented by 2015 to achieve an overall average increase up to 9.6% contribution for the scheme as a whole to save £2.8 billion. How this will be achieved in the remaining two stages is currently being discussed. No decisions or indication of the size or nature of contributions post April 2015 has been made by the Government. Along with these contribution increases there are to be many other changes that will be introduced as part of the Coalition Government's review of public sector pensions.

For 'existing members' of the TPS on or before 1 January 2007, including those who were out of pensionable service but who returned to teaching by 31 December 2007 and teachers who re-entered pensionable service after 31 December 2007 following a break of service of not more than five years, the scheme currently provides the following benefits:

- a guaranteed pension payable at the normal pension age (NPA) of 60 based on 1/80 of 'final average salary' and a tax-free lump sum of 3/80 of 'final average salary', multiplied by the number of years and days of reckonable service;
- from April 2011 the pension will be increased each year by the Consumer Prices Index (CPI) to take account of rises in the cost of living.

The annual pension calculation is:

Final average salary x (years + days) x 1/80

(e.g. £31,000 x (25 years + 148 days (25.41)) x 1/80 = £9,846.38 per annum).

The tax-free lump sum calculation is:

Final average salary x (years + days) x 3/80

(e.g. £31,000 x (25 years + 148 days (25.41)) x 3/80 = £29,539.13 tax free).

The final average salary is the best of:

- the pensionable salary received in the last 12 months before the date of retirement; or
- the average of the best consecutive three years' salaries in the last ten calendar years, revalued using the CPI, if this is more advantageous.

Other benefits include:

- the opportunity for teachers to increase their TPS pension by purchasing 'additional pension benefits', or paying Additional Voluntary Contributions (AVCs) through the 'in-house' scheme (or a Free Standing Additional Voluntary Contribution (FSAVC) plan);
- ill-health benefits, which may be taken immediately if approved by Teachers' Pensions on medical advice that the teacher is permanently unfit to teach;
- dependants' benefits in the form of survivor's pensions for widows, widowers, civil partners, unmarried nominated partners or financially dependent close relatives in the event of death. You must have two or more years' eligible service. Survivors' pensions are paid at the rate of 1/160 of the final average salary for each year of service that counts for survivor benefits. (NB. All pensionable service is counted automatically for widows' and dependants' benefits from 1 April 1972; and from 6 April 1988 for widowers' and civil partners' benefits; and from 1 January 2007 for nominated unmarried partners' benefits);
- a lump sum payment equal to three times the average salary if the teacher dies while in pensionable employment (death in service);
- discretion for employers to grant teachers immediate benefits if aged over 55 when made redundant or retired prematurely on grounds of 'organisational efficiency';
- discretion for employees to take retirement at age 55 or over with an actuarially reduced pension;
- discretion for employees aged 55 or over to take phased retirement and continue teaching while drawing up to 75% of their accrued pension benefits.

New entrants to the TPS, namely teachers who enter the scheme on or after 1 January 2007 with no previous pensionable service to their credit, and teachers with service prior to 1 January 2007 who re-entered pensionable service after 31 December 2007, following a break of service of more than five years, will be subject to the same provisions above that apply to existing members, except that:

- NPA is 65 (although any benefits accrued before 1 January 2007 would still be payable at age 60);
- pension is based on an accrual rate of 1/60 of the final average salary for each year of pensionable service with the option of exchanging part of their pension for a tax-free lump sum (within HMRC limits of up to 25% of their fund value);
- pensions are actuarially increased for those who continue in work beyond the NPA of 65 without drawing their pension benefits.

From implementation of the new scheme architecture in 2015 the pension scheme, for those teachers further than ten years from their NPA (there is some additional tapering protection for those between 10 and 13 years from NPA), the scheme will offer the following main benefits:

- a pension based on career average service rather than final salary;
- an accrual rate of 1/57th of pensionable earnings each year;
- revaluation of active members' benefits in line with CPI + 1.6%;
- NPA equal to state pension age for new scheme service.

Further details of the full features of the new scheme can be found on the NASUWT website at www.nasuwt.org.uk.

Further Information

NASUWT Publications:

- *Appraisal (Performance Management) A Practical Guide for Appraisers and Appraisees*
- *NASUWT Model Performance Management Policy with Commentary for NASUWT Representatives (includes an observation protocol)*
- *Performance Management Checklist (Jointly with the NUT)*
- *Performance Management Observation Protocol (Jointly with the NUT)*

Performance Management

Prior to September 2012, performance management was a process to support the development of all staff to improve teaching and raise standards. All schools in England and Wales were required to have a performance management policy in place that was fully compliant with relevant government regulations, the Education (School Teacher Performance Management) (England) Regulations 2006.

From 1 September 2012, these regulations were replaced by the Education (School Teachers' Appraisal) (England) Regulations 2012. These regulations, which are highly permissive in their nature, have the effect of removing many of the regulatory safeguards for teachers from the performance management/appraisal process. In addition, in Wales the 2002 appraisal regulations have been replaced by the 2011 regulations.

Accordingly, it is necessary for the NASUWT to engage at all levels with LAs, diocesan authorities and with employers and governing bodies to ensure that where schools insist on making changes to their performance management/appraisal policy and procedure, it is done in such a way as to secure all the protections formerly provided for in the 2006 regulations.

The NASUWT has created and distributed a significant amount of material to facilitate this. There is a model NASUWT policy and observation protocol along with a negotiating checklist. NASUWT Representatives should also be aware that in conjunction with the NUT the NASUWT has agreed both the checklist and the observation protocol for use in such situations, to which both unions have agreed to adhere.

The changes to the performance management/appraisal arrangements and the protection of the safeguards for teachers is a significant element in the NASUWT industrial action strategy. If NASUWT Representatives are confronted with changes to their schools' performance management/appraisal policy and procedure they should notify their NASUWT local/negotiating secretary and ensure that any changes comply with the checklist and observation protocol, if adoption of the NASUWT model policy cannot be achieved. A refusal by the school to accept either of these arrangements will need to be challenged under the NASUWT industrial action instructions during the course of the current national dispute.

In England, since 1 September 2009 (Round 10), assessment against the post-threshold standards has been determined solely on the basis of the evidence contained in the

performance management review statements from the relevant period. There have been no changes to the provisions in the STPCD to vary this arrangement. NASUWT Representatives will therefore need to ensure that the school has drawn to the attention of all teachers who act as performance management reviewers the need to take this into account when finalising planning and review statements with reviewees. All teachers having progressed to M3 on the main scale will need to ensure that the performance management outcomes will provide evidence for assessment against the post-threshold standards. Threshold application remains an elective process.

In Wales the 2002 Appraisal regulations have been replaced by the 2011 regulations and the NASUWT has issued similar advice and guidance for representatives in Wales which mirrors that provided for use in England.

NASUWT Representatives should be aware that these conditions of service provisions are currently subject to national action instructions, and reference should be made to those instructions before advice is given to members or before entering into any negotiations on them.

Recognition

The Trade Union and Labour Relations (Consolidation) Act 1992, which was amended by the Employment Relations Act 1999 and 2004, gives powers to trade unions to force reluctant employers to grant them recognition for purposes of collective bargaining where there are more than 20 workers. In order to secure statutory recognition either through negotiation with the employer or via the Central Arbitration Committee (CAC), trade unions are obliged to overcome a high test. They must demonstrate in a ballot that a majority of those voting (amounting to at least 40% of those in the bargaining unit) support the call for recognition. Where more than 50% of the workforce are members of a trade union, the CAC may declare automatic recognition without a ballot.

The NASUWT is a recognised union in all LAs, voluntary aided and foundation schools. The Union is also recognised in the former sixth-form college sector, some FE colleges (including the FE sector in Wales), an increasing number of academies and independent schools and by other bodies that employ teachers (e.g. Ministry of Defence). Where the NASUWT is not currently recognised, the laws might be of assistance, although, because the legislation is complex, NASUWT Representatives should always consult their Regional Organiser or Professional Assistant before taking any action. Regional Organisers and Professional Assistants work in Regional Centres throughout the country.

Recognition is important because recognised unions have the following rights (amongst others):

- the right to time off with pay for their representatives undergoing training;
- the right to time off with pay for their representatives carrying out trade union duties;
- the right for their representatives not to be discriminated against for trade union membership and carrying out trade union duties or activities;
- the right to the disclosure of information by the employer for the purposes of collective bargaining;
- rights relating to information and consultation in connection with the TUPE;
- the right to be consulted in respect of collective redundancies;
- the right to secure appropriate facilities for their representatives.

Further Information

*Redundancy Advice
for Local and
Negotiating
Secretaries
(NASUWT)*

Redundancy

Broadly speaking, there are three main redundancy situations:

- closure of the business as a whole;
- closure of the particular workplace where the employee was employed;
- reduction in the size of the workforce.

If there is not a genuine redundancy situation, the dismissal may be unfair.

The sacking of teachers on the alleged grounds of redundancy whilst class sizes are rising is not to be tolerated and will be resisted by the NASUWT wherever possible. The NASUWT Representative has an important role to play in preventing this situation from arising in the first place. The Representative should:

- monitor the school budget (section 251/budget outturn statement) carefully. The Representative is entitled to receive budget statements and should request them from the school headteacher or LA;
- ensure, with the assistance of the Local Association Secretary, that the school has established a redundancy procedure in line with NASUWT policy **before** a redundancy situation has arisen; and
- at the first hint of a potential redundancy situation, inform the Local Association Secretary, who would become closely involved should any member prove to be at risk.

Employers have certain duties in a redundancy situation:

- To inform and consult with potentially affected employees and the trade union(s), in good time, with a view to agreeing a redundancy procedure and in order to investigate ways of avoiding redundancy. Failure to consult may render the dismissal unfair.
- To ensure that any selection criteria are fair, objective and non-discriminatory and are applied fairly. Unfair selection may render the dismissal unfair.

(It should be noted that 'last in, first out' (LIFO) as the sole criterion for selecting redundancies is potentially indirectly discriminatory on the grounds of age. LIFO should only be used as one of a number of selection criteria or as a tie-breaker. NASUWT Representatives should resist LAs' attempts to change redundancy policies to remove LIFO altogether.)

- If the procedure goes ahead, employers must make every effort to find the teacher(s) at risk an alternative post or this could render the dismissal unfair. (The governing body should agree to withdraw the redundancy notice at any time

that a change in circumstances permits, no matter what stage the process has reached.)

- Redundancy is a form of dismissal and employers should as a minimum:
 1. inform the employee in writing of the circumstances that may lead to their dismissal, including the reasons for the redundancy and why they have been selected;
 2. invite the employee to a meeting to discuss the issue and inform the employee of the decision and of their right of appeal;
 3. if the employee wishes to appeal, hold an appeal meeting. The employee should be informed of the final decision.

Members should be able to take a trade union representative or friend to any meeting which may result in their dismissal by reason of redundancy and any appeal process.

There are special rules under the Trade Union and Labour Relations (Consolidation) Act 1992 s188-192 whereby an employer must inform and consult with the appropriate trade union(s) or employee representatives, where the employer is proposing to dismiss 20 or more employees at one establishment within a period of 90 days. Failure to inform and consult may give rise to a claim for a 'protective award' to the ET by the trade union, on behalf of the employees. Alternatively, if the employer fails to arrange for the election of an employee representative for the purposes of consultation or where a trade union is not recognised by the employer, an individual employee can bring a claim.

Expert advice should be sought on potential redress to the ET in redundancy dismissal cases from the NASUWT Regional Centre.

Redundancy payments

An employee dismissed on the grounds of redundancy is entitled to a statutory redundancy payment, if s/he has the necessary two years' continuous employment to qualify. This calculation is based on a week's pay (capped at the statutory maximum) and length of service. An employee may lose his/her statutory redundancy pay if s/he unreasonably refuses an offer of suitable alternative employment. Some employers offer enhanced redundancy payments but this is discretionary.

For teachers, if an individual receives an offer of suitable comparable employment with any employer listed in the Continuity of Employment in Local Government etc Modification Order 1999 to start immediately within four weeks of the end of the previous employment, s/he will be ineligible for a redundancy payment. All LAs in England, Wales and Scotland are covered. A full list is set out at Appendix C of the Burgundy Book.

Teacher Support Network

Teacher Support Network is the independent charity dedicated to the wellbeing of teachers, headteachers and lecturers. Last year, a teacher was helped every 24 minutes.

Teacher Support Network provides the following free services:

- guidance on a diverse range of issues, including stress management, workplace bullying and work/life balance;
- information, resources and signposting to other relevant organisations;
- money advice – providing individually tailored strategies to cope with financial strain;
- financial assistance in the form emergency grants;
- confidential, solution-focused counselling on personal and professional issues to enable teachers to find their solutions to problems whether in school or out.

These services can be accessed by visiting www.teachersupport.info or by calling Teacher Support Line on 08000 562 561 in England and 08000 855 088 in Wales.

The website contains up-to-date news on the teaching profession through factsheets, FAQs and guides, a free e-newsletter with regular news and updates and a new interactive online support service. Visit www.teachersupport.info to find out more about the free services available and to subscribe to Teacher Support Direct to receive up-to-date education news and information.

Teacher Support Line can be accessed 24 hours a day, seven days a week and it is completely free and confidential. Teacher Support Line Cymru has been developed specifically for Welsh teachers to offer local expertise and an in-depth understanding of the Welsh education system. It can provide bilingual advice and guidance.

The Teacher Support Network recognises and values the role of teachers, headteachers and lecturers within schools, colleges and society and is dedicated to ensuring that they are supported in the most effective way possible throughout their careers from training to after retirement.

In order to provide its extensive services, the Teacher Support Network relies on the generosity of others. If you would like to offer support, please visit www.teachersupport.info or call 020 7554 5200.

Registered Charity No. 1072583

Remember that members may also be able to access financial assistance via the NASUWT Benevolent Fund.

Further Information

Conditions of Service for School Teachers in England and Wales (Burgundy Book)

The New 'Fit Note', Representatives Bulletin, May 2010

NASUWT Model Sickness Absence Policy and Procedure
www.nasuwt.org.uk/ModelPolicySicknessAbsence

Sick Pay and Sick Leave

National agreements on the teachers' sick pay scheme are contained in the Burgundy Book of teachers' conditions of service, summed up below for quick reference. **The NASUWT Representative should keep a copy of any local or school arrangements that may enhance these.**

The minimum sick pay entitlement is:

- **in the 1st year of service** – full pay for 25 working days and, after four calendar months' service, half pay for 50 working days;
- **in the 2nd year of service** – full pay for 50 working days and half pay for 50 working days;
- **in the 3rd year of service** – full pay for 75 working days and half pay for 75 working days;
- **in the 4th year and successive years of service** – full pay for 100 working days and half pay for 100 working days.

(The sick leave year is deemed to be 1 April to 31 March.)

A medical statement is required as follows:

- **on the 4th day of absence**, a personal note to 'self-certify' the absence;
- **on the 8th day**, a medical statement (fit note);
- if absence is prolonged, a medical statement **at the end of each month** and on return to duty (unless the date of return has been specified on a previous medical statement);
- **if admitted to hospital**, a medical statement on entry and discharge.

If absence is prolonged or frequent, the employer may call for an examination by an approved medical practitioner. See Medical Matters (page 78) for more information about sick leave and sick pay.

Teachers working in academies, free schools and independent schools will need to refer to the relevant policies, procedures and contractual entitlements in operation at their school. Representatives should be aware of the new arrangements for the reporting of sickness absence, which came into effect on 6 April 2010. Further information is available in the NASUWT Representatives' Bulletin, May 2010 – The New 'Fit Note'. The Coalition Government's consultation on 'Modern Workplaces' includes proposals to amend the Working Time Regulations 1998 in light of decisions made by the European Courts. These changes, if implemented, would restrict to 20 days the amount of annual leave that can be carried over to the next annual leave

year when a worker has been unable to take annual leave due to sickness absence. The NASUWT has produced a Model Sickness Absence Policy and Procedure and further guidance will be issued once the Government makes any changes to legislative provisions.

Further Information

NASUWT Publications:

- *Teachers' Mental Health Report*
- *Wellbeing at Work Stress:*

The UK National Work Stress Network
www.workstress.net

Tackling Stress at Work
(Labour Research Department (LRD)),
78 Blackfriars Road,
London SE1 8HF
www.lrd.org.uk
020 7928 3649

Managing Occupational Stress: A Guide for Managers and Teachers in the Schools Sector
(Education Service)

Advisory Committee (ESAC) – HSE Books

Teacher Support Network advice and counselling:
www.teachersupport.info

08000 562 561(Eng)
Information:
www.teachersupport.info

HSE Management Standards for work-related stress
www.hse.gov.uk/stress/standards/index.htm

Stress

Stress is the reaction of our body and mind when the demands made of us become too much for our ability to manage. Stress is an area of concern for NASUWT Representatives as well as Health and Safety Representatives.

Signs of stress in colleagues may be:

- behavioural changes such as irritability, aggression, unwillingness to accept advice or co-operate with others, increased use of cigarettes, coffee, alcohol and other drugs, overworking and difficulty in maintaining concentration.

Particular pressures on teachers include:

- excessive workload;
- pupil behaviour;
- a host of frustrating and ineffective meetings;
- Ofsted inspections;
- major changes in working practices;
- threat of violence;
- management bullying;
- threat of sexual or racial harassment;
- lack of career progression;
- large class sizes.

The NASUWT Representative should treat the issue as a collective problem and:

- work with the NASUWT Health and Safety Representative;
- hold a meeting and organise a short survey to encourage members to discuss the issue;
- check sickness, absence and accident statistics to see if they are related to stress;
- consider suggesting the implementation of a general stress management programme. Argue that stress impairs the performance of the school by creating increased and unpredictable sickness absence, high staff turnover, behavioural problems, poor working relationships and less teamwork. It tends to have a domino effect if left unchecked: colleagues may themselves be put under greater pressure. Stress-related absence costs money;
- if an individual member has problems, the underlying causes must be identified and addressed. Also suggest potential assistance such as programmes of anxiety management, counselling, relaxation and/or assertiveness training.

Where a member has suffered extended absence as a result of work-related stress, the NASUWT Representative should take advice from the Regional Centre.

Violent and Disruptive Behaviour

Advice to NASUWT Representatives for the protection of pupils and staff.

1. Take advice from your Local Association Secretary prior to acting on this issue.
2. Seek to negotiate with your headteacher to:
 - review, republish and enforce the school behaviour management policy;
 - formulate a code of conduct and communicate to students and parents an unequivocal commitment to exclude pupils who fail to adhere to it;
 - establish a policy of zero tolerance of verbal abuse enforced through exclusion;
 - resist attempts to use parental complaints to undermine teachers;
 - train all staff (including the senior management team (SMT)) in techniques for the avoidance and management of violent and disruptive pupil behaviour;
 - place a trained SMT member on standby at all times for intervention in disruptive incidents;
 - have SMT members available to support teaching staff experiencing pupil behaviour problems;
 - seek to secure orders banning identified parents and intruders under Section 547 of the Education Act 1996.
3. Advise members to:
 - ensure that the employer reports all incidents of actual or threatened assault and/or criminal damage to the police. If the employer refuses to do this, then the member should report it, preferably within 48 hours. The NASUWT Local Association Secretary should be informed;
 - report all actual or threatened assaults and confrontational incidents causing stress through the workplace accident reporting procedure;
 - report all actual or threatened assaults and confrontational incidents causing stress through the Department for Work and Pensions (DWP) form BI100A and the RIDDOR reporting procedure.
4. In the event of management failure to establish a safe working environment, the NASUWT Representative should:
 - make a formal request for the risk assessment of the conduct of pupils who repeat violent and disruptive behaviour;

- put management on written notice of exposure to action in negligence where there is a failure to take appropriate action over pupils whose recorded behaviour constitutes a 'foreseeable risk';
- take advice from the National Executive Member regarding the possibility of balloting for industrial action on refusal to teach pupils with an established record of violent and disruptive behaviour.

Working Time

The Working Time Regulations 1998, for reasons of health and safety, establish for most workers, including all teachers, a maximum working week of 48 hours. The contractual working hours of teachers employed by LAs and the governing bodies of foundation and voluntary aided schools are laid down in the STPCD.

Teachers working in academies, free schools and independent schools will need to refer to the relevant policies, procedures and contractual entitlements in operation at their school.

The STPCD stipulates that headteachers, deputy headteachers, assistant headteachers, Advanced Skills Teachers (ASTs), Excellent Teachers and teachers on the leadership spine have no contractual limits on their working time. In addition, the STPCD requires that:

- all other teachers must be available for work for 195 days each year, of which 190 shall be days on which they may be required to teach children;
- teachers are required to be available for 1,265 hours each year, during which they may be directed to perform duties by the headteacher. Such directions must be 'reasonable' and time should be allocated for planning, preparation and assessment (PPA), as well as teaching and meetings. NASUWT Representatives should insist that a 'time budget'/calendar, laying down management expectations of staff, should be drawn up before the commencement of each academic year in consultation with the trade union representatives as required in the STPCD;
- a teacher is required to work 'such reasonable additional hours as may be needed to enable him to discharge effectively his professional duties'. The time and place are to be determined by the teacher;
- in allocating duties, the headteacher must take account of a teacher's need for a reasonable work/life balance (page 102). Particular attention should be paid to the STPCD provisions and guidance relating to part-time teachers in this respect. Part-time teachers should not have a greater proportion of their directed time allocated outside of their normal sessions than full-time teachers.

There are no regulations that require schools to have a particular length of day or a particular amount of time allocated to teaching within the school day.

Any proposal to change the length of the school day has conditions of service implications and must be the subject of negotiation with the representatives of recognised unions within the school. Such decisions should never be made at staff

meetings. The NASUWT is adamantly opposed to the lengthening of the school day and NASUWT Representatives should inform their Local Association Secretary immediately if any proposal to do so is made.

Further Information

Examples of administrative tasks that should not be routinely done by teachers:

- *collecting money;*
- *chasing absences;*
- *bulk photocopying;*
- *copy typing;*
- *producing standard letters;*
- *class lists;*
- *record keeping and filing;*
- *displays;*
- *attendance analysis;*
- *processing exam results;*
- *collating reports;*
- *admin of work experience;*
- *admin of exams;*
- *admin of cover;*
- *ICT troubleshooting;*
- *ICT commissioning;*
- *ordering supplies;*
- *stocktaking;*
- *cataloguing, issuing and maintaining supplies or equipment;*
- *minuting meetings;*
- *co-ordinating or submitting bids;*
- *seeking/giving personnel advice;*
- *managing pupil data;*
- *inputting pupil data (after an initial entry).*

Work/Life Balance

All teachers and headteachers are entitled to enjoy a satisfactory balance between the demands of their professional duties and their personal interests outside work.

This right is enshrined in law for teachers employed under the provisions of the STPCD.

- All employers have a general duty under the Health and Safety at Work etc. Act 1974 to ensure the health, safety and welfare of employees, and the Working Time Regulations 1998 set limits on working time.
- Work/life balance is specifically provided for in the conditions of service for all teachers and headteachers in maintained schools as set out in the STPCD.
- Following the National Agreement on reducing workload, the STPCD requires that:
 - additional hours over and above the annual 1,265 must be reasonable;
 - for those teachers not covered by the 1,265 limit on directed time, overall hours must be reasonable;
 - headteachers must have regard to the desirability of all teachers being able to achieve a satisfactory work/life balance;
 - governing bodies are obliged to ensure that headteachers can achieve a reasonable work/life balance.

As a direct result of the NASUWT's campaigning, these provisions are not simply recommendations, they are contractual entitlements. In England, the SEF now contains statements on compliance with contractual entitlements, including work/life balance. NASUWT Representatives should monitor the SEF to ensure that the statements are accurate. If the NASUWT Representative is concerned with the content, they should contact the Local Association Secretary for advice.

NASUWT Representatives should work with Health and Safety Representatives to ensure that, as recommended in the STPCD, they are consulted in order to develop agreed strategies for achieving a reasonable work/life balance.

The STPCD states that in implementing contractual changes, there must be no detriment to existing working practices.

Strategies include the following actions and should be in place in every school:

- an agreed directed time budget and calendar of meetings for the year;
- no 'pre' Ofsted inspections and the related redrafting of policy statements, etc.;
- work for real Ofsted inspections is limited to that required in the Ofsted framework;
- a maximum of one meeting per week for teachers not on the leadership spine, and for others an agreed reasonable number;
- meetings are a maximum of one hour, with published agendas, and are effectively chaired;
- parental consultation meetings are a maximum of one per year group taught and counted against the weekly total of meetings;
- open evenings are voluntary but if attended count against directed time and the weekly total of meetings;
- planning is simple and streamlined;
- teachers use published schemes of work and lesson plans where they deem them appropriate. Requests for the submission of schemes of work and lesson plans are limited to a maximum of once per term. There are no excessive demands to report back on lessons;
- pupil reports are made once per year. Unless computer generated, reports have a maximum length of 400 words with a 40-word maximum for individual subjects;
- documents are reviewed to consider their value, length and method of production.

Teachers working in academies, free schools and independent schools will need to refer to the relevant policies, procedures and contractual entitlements in operation at their school.

Workforce Remodelling – the National Agreement

The historic National Agreement, signed in January 2003 by the previous Government, employers and school workforce unions, has radically altered the teacher's contract and conditions of service. The changes to the terms and conditions of employment secured by the National Agreement apply to teachers employed by LAs and the governing bodies of foundation and voluntary aided schools. It aims to raise standards and tackle workload issues, allowing teachers to concentrate on teaching.

Notwithstanding the significant changes to the terms and conditions of employment of teachers and headteachers planned by the Coalition Government, NASUWT Representatives should be aware that the key contractual provisions of the National Agreement set out below still apply and have full statutory and contractual force.

- Teachers must not routinely undertake administrative and clerical tasks such as chasing absences, collecting money and record keeping. There are examples listed in the STPCD that should no longer be the responsibility of teachers. The key test is whether the work needs the professional skills or judgement of a teacher.
- All teachers should enjoy a reasonable work/life balance. It is the responsibility of the headteacher to ensure that staff have an appropriate workload, having regard for their health and welfare.
- Teachers must have a reasonable allocation of time in support of leadership and management responsibilities that they hold in addition to PPA time.
- Covering for absent colleagues is limited to a requirement to cover only rarely and only in circumstances that are not foreseeable. Alternative arrangements for cover are necessary and the use of supply teachers, cover supervisors and higher level teaching assistants (HLTAs) is becoming common practice.
- All teachers are entitled to a minimum of 10% PPA time out of their normal timetabled teaching time.
- Teachers should not routinely be required to invigilate external exams. Invigilation should be passed to support staff.
- Headteachers should have dedicated 'headship' time to allow them to lead their schools. Governing bodies are responsible for ensuring a reasonable allocation of time for this purpose.

Appendix 1

Model Agreement: Arrangements for Joint Consultation

1 Statement of Intent

This agreement reflects the commitment of the governing body of the school and the recognised teacher trade unions to the concept of solving problems by joint consultation, both sides accepting that a constructive joint consultative relationship is best achieved by a procedural framework recognised and used as the only process through which joint consultation on matters within the scope of this agreement (see section 2) shall take place unless otherwise agreed by the parties.

2 Scope of the Agreement

2.1 In the context of this agreement, consultation is used as a generic term to cover consultation, discussion and negotiation.

2.2 Within the context of this agreement, either side may use the procedure on matters that affect:

- a) terms and conditions of employment, or the physical conditions in which teachers are required to work;
- b) engagement or non-engagement, or termination or suspension of employment, of one or more teachers;
- c) allocation of work or the duties of employment as between teachers or
- d) groups of teachers;
- d) matters of discipline;
- e) trade union membership or non-membership;
- f) facilities for trade union officials;

as long as the matters involved are within the competence of the governing body of _____ School.

2.3 It is agreed that any proposals relating to matters identified under 2.2 will be the subject of joint consultation. It is agreed that this includes the following:

- a) pay, hours of work, holidays and holiday pay, sick pay arrangements, pensions, vocational training, equal opportunities, notice periods, the working environment, utilisation of machinery and other equipment;
- b) recruitment and selection policies, human resource planning, redundancy and dismissal arrangements;
- c) job grading, job evaluation, job descriptions, flexible working practices;
- d) disciplinary procedures, arrangements for representing trade union members at internal interviews, arrangements for appearing on behalf of trade union members, or as witnesses, before agreed outside appeal bodies or industrial tribunals;
- e) representational arrangements, any union involvement in the induction of new workers;
- f) collective bargaining, grievance procedures, joint consultation, communicating with members, communicating with other union officials also concerned with collective bargaining with the employer.

2.4 It is understood that this agreement is not intended to deal with matters covered by any jointly agreed procedures (e.g. agreed discipline and grievance procedures).

2.5 Whilst this agreement is not intended as a collective disputes procedure, it will be

used under certain circumstances as a means of conciliation (see section 6 below).

2.6 Whilst this agreement is a formal undertaking between the parties, it is understood that the teacher unions may act collectively or singly in operating the agreement.

3 **Informal and Formal Joint Consultation**

Whilst it is difficult to draw a clear definition between informal and formal joint consultation, or indeed to determine when informal joint consultation becomes formal joint consultation, it is accepted by the parties that there are essential differences. Accordingly, the arrangements for joint consultation make some differentiation in procedural requirements on representatives of the parties.

3.1 Informal Joint Consultation.

Either the management side or the trade union side representatives may wish to hold informal consultation from time to time. This might be quite commonplace and either side should make all reasonable efforts to agree to an early meeting. In every case the meeting should occur as soon as possible.

3.2 Formal Joint Consultation.

Formal joint consultation will occur on two levels. The first level will comprise the headteacher and representatives of the teacher unions. Every effort will be made to reach agreements at this level. Agreements reached at this level will be dealt with through the school's normal processes. If agreement cannot be reached at this level, the matter will be referred to the Joint Consultative Committee (JCC). A meeting of the JCC will convene within 15 days.

3.3 Joint Consultative Committee.

The second level of formal joint consultation is the JCC. The JCC shall comprise three representatives of the governing body (none of whom shall be employees at the school) and one representative of each of the teacher unions. The headteacher shall be present in an advisory capacity. Reference to this level may be direct or by reference from the first level. Every effort will be made to reach agreement.

4 **Failure to Agree**

If there is a failure to agree at the first level, the matter will be referred to the JCC. If there is a failure to agree at the JCC, both sides will accept the need for conciliation. The conciliation procedure is set forth in section 6.

5 **Collective Dispute**

If a collective dispute is declared by the teacher unions or an individual teacher union, both sides must use the conciliation procedure outlined in section 6.

6 **Conciliation Procedure**

Following a failure to agree at the JCC, the parties may, by agreement, refer the matter to the full governing body for resolution. The governing body with the assistance of the LA will seek to resolve the matter and discussions may take place with the national representatives of the teacher unions.

If a failure to agree continues, the matter will be referred to the Advisory, Conciliation and Arbitration Service (Acas), which is the body statutorily designed to deal with such matters.

7 **Amendment to the Agreement**

Amendments to this agreement may be made by the agreement of both sides.

8 **Disputes Arising from the Agreement**

Any dispute arising from the agreement or its operation will be dealt with within the terms of the procedural arrangements set down within this agreement.

Schedule 1: Composition and Rules of the JCC

1 Membership

- 1.1 Each teacher union recognised by the LA and having members within the school shall have one representative on the teachers' side.
- 1.2 The management side shall consist of an agreed number (recommended: three) of members of the governing body who themselves are not employees of the school.
- 1.3 In the event of a member being unable to attend a meeting, the body represented by such members will be entitled to appoint a substitute.

2 Advisors

- 2.1 Each side, subject to the prior notification of the other side, may be accompanied by such other persons seen to be appropriate from time to time in an advisory capacity.
- 2.2 Advisors may speak but not vote.

3 Voting

Every effort will be made on the part of the JCC to reach agreement. If voting is necessary on an issue, it will only be agreed if there is a majority on each side in favour. In the case of the teachers' side, each representative shall cast that number of votes being the membership of his/her union in the school. In the case of the management side, each representative shall cast one vote. The Chair will not have a second or casting vote.

4 Agenda

All items for discussion, together with any supporting documentation, will be notified and circulated to either side an agreed minimum (recommended: ten) of working days in advance of the meeting. Additional documentation will only be considered by agreement between the parties. There will be no 'any other business' (AOB) except in an emergency situation and by agreement between the parties.

5 Chair

- Option 1. Each side will chair the JCC alternately (either meeting by meeting or annually as agreed by the parties). Each side shall elect its own Chair.
- Option 2. The management side will chair the meetings.

6 Secretary

The Secretary to the Committee will be the headteacher or such other person as the parties jointly agree and shall be responsible for:

- a) the distribution of the agenda and supporting papers;
- b) administrative arrangements; and
- c) preparation of minutes.

7 Meetings

- 7.1 Meetings shall be held a minimum of once per term on dates agreed by each side (recommended: a calendar of dates). Committee members will have a minimum of ten working days' notice of meetings.
- 7.2 Special meetings shall be called at the request of either side and shall be held within ten working days of the request. Committee members will receive a minimum of five working days' notice of the meeting.

8 Minutes

The minutes will be approved by the Chair of each side prior to them being forwarded to the governing body.

Appendix 2

NASUWT Representative Incident Log

Date:	
Nature of incident:	
Identity of those involved:	
Report:	
Action taken:	
Signed:	Date:

NASUWT Regional Centres

Eastern Regional Centre

St James House
The Anderson Centre
Olding Road
Bury St Edmunds
Suffolk IP33 3TA
Tel: 01284 772300 Fax: 01284 772309
E-mail: rc-eastern@mail.nasuwt.org.uk

East Midlands Regional Centre

Colliers Way
Phoenix Park
Nottingham NG8 6AT
Tel: 0115 976 7180 Fax: 0115 976 7189
E-mail: rc-eastmids@mail.nasuwt.org.uk

Greater London Regional Centre

65 St John Street
Farringdon
London EC1M 4AN
Tel: 020 7490 6130 Fax: 020 7490 6138
E-mail: rc-london@mail.nasuwt.org.uk

North East Regional Centre

Witney Way
Boldon Colliery
Tyne & Wear NE35 9PE
Tel: 0191 519 5300 Fax: 0191 519 5309
E-mail: rc-northeast@mail.nasuwt.org.uk

North West Regional Centre

North Quarry Business Village
Skull House Lane
Appley Bridge
Lancashire WN6 9DL
Tel: 01257 256800 Fax: 01257 256809
E-mail: rc-northwest@mail.nasuwt.org.uk

South East Regional Centre

Milestone House
Portsmouth Road
Send
Surrey GU23 7JZ
Tel: 01483 226130 Fax: 01483 226139
E-mail: rc-southeast@mail.nasuwt.org.uk

South West Regional Centre

2 Marlborough Court
Manaton Close
Matford Business Park
Exeter
EX2 8PF
Tel: 01392 822500 Fax: 01392 822509
E-mail: rc-southwest@mail.nasuwt.org.uk

West Midlands Regional Centre

Ludgate Court
Water Street
Birmingham
B3 1EP
Tel: 0121 232 9400 Fax: 0121 232 9409
E-mail: rc-westmids@mail.nasuwt.org.uk

Yorkshire & Humberside Regional Centre

241 Leeds Road
Rothwell
Leeds
LS26 0GR
Tel: 0113 201 4600 Fax: 0113 201 4609
E-mail: rc-yorksandhumb@mail.nasuwt.org.uk

Key contacts

Quick reference

Contact	Name	Telephone
Local Association Secretary		School/Office
		Home
		Mobile
		Fax
		E-mail
NASUWT Health and Safety Co-ordinator		School/Office
		Home
		Mobile
		Fax
		E-mail
National Executive Member		School/Office
		Home
		Mobile
		Fax
		E-mail
Regional Official		Office
		Fax
		E-mail

NASUWT
The Teachers' Union

Hillscourt Education Centre,
Rose Hill, Rednal, Birmingham B45 8RS.

Tel: 0121 453 6150

Fax: 0121 457 6208

E-mail: nasuwt@mail.nasuwt.org.uk

Website: www.nasuwt.org.uk

The largest teachers' union in the UK