

# NORTHERN IRELAND TEACHERS COUNCIL

April 2013

Dear Colleague

## Health and Safety and the Working Time Regulations Guidance

The attached guidance on Health and Safety and the Working Time Regulations has been developed in cooperation by the five recognised teacher unions, ATL, NAHT, NASUWT, INTO and UTU. The guidance is designed to allow accredited school and safety representatives to highlight the importance of both pieces of legislation in the management of teachers and Principals workloads and working time. The guidance also aims to supplement and expand the references to health and safety and working time within the Workload Agreement (TNC 2011/8) and its associated appendices.

As accredited representatives, we would encourage you to:

- Bring the guidance to the attention of your Principal and Board of Governors;
- Encourage active discussion amongst your colleagues as to whether your workplace is safe and your working time commitments are reasonable and compliant.
- Strive to ensure that the guidance is used with other associated documents and advice from statutory agencies such as the Health and Safety Executive for Northern Ireland as used to improve the overall safety of your school and improve your work life balance.

We are pleased to be able to commend the enclosed guidance for your consideration and action.

Sent on behalf of

**NASUWT**  
The Teachers' Union  
NORTHERN IRELAND

**into**  
Irish National Teachers' Organisation  
Cumann Múinteoirí Éireann

**ATL**  
the education union

**NAHT**  
The Association for all School Leaders

**utu**  
ULSTER TEACHERS' UNION

## **NITC Guidance**

### **Health and Safety and the Working Time Regulations**

#### **Purpose**

The work and hours of teachers in Northern Ireland have been established as a result of the Jordanstown Agreement. In addition to these regulations the working lives and conditions of teachers, Principals and Vice Principals are regulated by Northern Ireland and EU legislation. In respect of NI legislation the prime piece of legislation is the Health and Safety at Work Order (NI) 1976. With regard to EU regulations the prime piece of legislation is the Working Time Directive which gives force in member states to the Working Time Regulations. This purpose of this document is to offer guidance on the management of workloads and working time to ensure that they are compliant with the above legislation as set out below.

#### **Health and Safety**

##### **The Health and Safety at Work Order (NI) 1976**

This piece of legislation requires employers and employees to work safely. In addition it imposes a requirement on employers to protect the health, safety and welfare of their staff and to undertake risk assessments where work or work practices are at risk of impacting on an employee's physical and / or mental health. Employers and employees must comply with the duties set out in the Order which are summarised as follows.

- **Section 2** places a duty on employers to ensure the health, safety and welfare of employees as far as is reasonably practicable and to consult with trade union safety representatives on matters affecting health and safety in the workplace.
- **Section 3** requires employers to ensure that non-employees (eg pupils/students) who may be affected by work activities are not exposed to risks to their health and safety. Where young or vulnerable persons may be affected, the duty of care is greater.
- **Section 4** places a duty on anyone responsible for the workplace to ensure that the premises, plant and machinery do not endanger the people using them.
- **Section 5** requires employers to prevent and control harmful, noxious or offensive emissions into the atmosphere.
- **Section 6** places duties on designers, manufacturers and suppliers to ensure that articles and substances are safe for use.
- **Section 7** states that it is the duty of every employee while at work to take reasonable care of him or herself and of any other person who may be affected by his or her actions. This section also requires employees to cooperate with their employer in relation to health and safety issues.
- **Section 8** requires employees not to interfere with or misuse anything provided in the interest of health and safety.

##### **The Management of Health and Safety at Work Regulations 1999**

The main requirement of the Management of Health and Safety at Work Regulations is that employers must carry out risk assessments to eliminate or reduce risks. Employers with five or more employees need to record the significant findings of a risk assessment. A risk assessment should be undertaken before new work practices have been instigated or after an incident where an employee's health and safety has been compromised.

#### **Working Time**

The Working Time Regulations (1998) implement the European Working Time Directive into Northern Ireland law.

The Regulations define a '**worker**' as:

- Someone who has a contract of employment (an employee), or
- Someone who is paid a regular salary or wage and who works for an organisation, business or individual. The employer normally provides the worker with work, controls when and how the work is done, supplies them with tools and other equipment, and pays tax and National Insurance contributions. This includes part time and temporary workers, and the majority of agency workers.

### **How is 'Working Time' defined by the Regulations?**

Under the Regulations '**working time**' means any period during which the individual is working, is at the employer's disposal and is carrying out their activities or duties.

This includes:

- any period during which the worker is receiving training that is directly related to their job
- travel time during the working day (for example, the journey between two schools or meetings)

### **What rights do the Regulations provide?**

The **basic rights** and **protections** that the Regulations provide are:

- A limit of an average of **48 hours per week** over a prescribed 'reference period' of (usually) 17 weeks which a worker can be required to work (though workers can choose to work more if they want to).
- A right to a **daily rest period** of **11 consecutive hours** between working days.
- A right to an **uninterrupted rest period** of not less than 24 hours each week.
- Where the working day is longer than six hours, a right to an **uninterrupted rest break of 20 minutes** during the six hour period (not at the beginning or end of it).

### **Applying the guidance**

**Governors** should ensure that this guidance is made available to staff and that Health and Safety is prioritised within the school. In addition Governors should ensure that the overall working practices and workload within the school are safe and that demands placed on staff are compliant with this guidance and the legislation. Governors should give due cognisance to the work demands and hours imposed on staff and in particular work undertaken outside of the normal school day and / or at weekends.

**Principals** should ensure that the school is a safe place of work and that the demands arising of their own workload and that of teaching staff on a daily basis is manageable, safe and in keeping with this guidance.

**Teachers** should aim at all times to work safely and not put at risk their own health or that of other staff. In addition teachers should ensure that the work demands made by the Principal / and or Governors are compliant with this guidance.

### **Disputes**

It is hoped that this guidance and written policy and procedures will avoid disputes in relation to working time. Any teacher who has a concern in respect of the time demands of their work should raise the matter, in the first instance with the Principal. In the case of a Principal this should be addressed to the Chairperson of the Board of Governors. The teacher should seek support from their recognised trade union to resolve the situation. It is hoped that such issues will be resolved without recourse to formal procedures. In circumstances, however where a Principal or teacher is not satisfied with the Grievance Procedure for Teachers (TNC 2008/3) may be used.