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Guidance for the full opening of schools in September

Staffing matters



Introduction

This paper has been co-written by Emma Hughes, Head of HR Services at Browne Jacobson and Mandy Coalter, Founder of Talent Architects.

It draws on the experience and practice of working with many schools preparing for full opening in September 2020.

More than anything, September is going to be a time for creative thinking and flexibility. School leaders will expect staff to flex their duties and possible working hours and in return staff should be able to expect a certain degree of flexibility back in return. It's going to be a time of working together to solve problems in order that pupils can return, that educational provision can be delivered with little to no compromise and more than anything, staff and pupils are safe and cared for.

Added to that, school leaders need to build trust by becoming excellent consultative communicators. Never before have school leaders needed to balance the absolute need to deliver high-quality education onsite and remotely with the resource challenges that can come with a pandemic.

The spring and summer terms have been extremely challenging so it is important that governors and trustees are looking out for their school leaders, ensuring that a break is planned in over the summer. Some school leaders will need to be encouraged to do this when the temptation is to keep on planning for September. Furthermore, school leaders should encourage their staff to take a break too.

This paper aims to assist school leaders to navigate the people challenges that may come with the full opening of schools in September.

We strongly recommend that you read the Government [guidance](#) and information provided. Please do not hesitate to contact us with any queries that arise following further Government announcements.



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Staffing matters - full opening in September

This paper is sectioned into the key areas that schools may or may not face in planning and preparing for full opening in September.

Consulting and engaging staff

Schools will want to fully engage their staff and local trades union representatives in plans to mitigate risks. This will include speaking to employee representatives as well as providing all staff with the opportunity to discuss their personal concerns. It will be vital to plan a formal induction for all staff as to the new arrangements, and for extra care to be taken with staff who have not been in school at all during the lockdown period. These staff may be particularly anxious.

You may need staff to be flexible about duties, for example being prepared to assist with regular cleaning of surfaces. Staff will be more likely to be willing to do this if they have been consulted and if they also understand your formal arrangements such as regular professional cleaning rotas.

Outbreaks

If there are 2 or more confirmed cases within 14 days or there is an overall rise in sickness where Covid-19 is suspected then this may be considered to be an outbreak.

Local health protection teams should advise what action is required and this could include the isolation of:

- the whole school
- a year group
- a bubble

Childcare

As all school age children are expected back at school in September then the burden of childcare is reduced. There will of course remain the issue of childcare for children outside of school age, where nurseries have not yet opened or where grandparents/other carers are unable to care for children. In addition, there could be similar problems for wrap around care that has ceased or where a member of staff has been unable to secure childcare for their own children.

Schools are encouraged to speak with staff about childcare challenges and find a way of managing the problem with them.

Staff wellbeing

Trusts and schools have made huge efforts to support staff wellbeing during the lockdown period and these will need to continue as schools fully return. Many Trusts are ensuring all staff, and particularly leaders, have a full summer break to enable rest and recuperation. Trusts should continue to offer well-being support for staff such as confidential counselling and occupational health services. Occupational health teams can assist with follow up on testing, offering hygiene practice or providing advice on reasonable adjustments.

The Department for Education is providing additional support for both pupil and staff wellbeing in the current situation. Information about the [extra mental health support](#) for pupils and teachers is available.

The [Education Support Partnership](#) provides a free helpline for school staff and targeted support for mental health and wellbeing.

Staff return

According to the Government, the guidance is designed to mitigate the risks to all staff. As we know, the instructions around shielding will be paused from 1 August with those who have been shielding (clinically extremely vulnerable) being able to return to work in September 2020 provided that their school has implemented the system of controls as outlined in the government guidance, in line with the school's own workplace risk assessment. This may be different for areas where local lockdown means that shielding and other restrictions will continue.

According to the government guidance, the clinically extremely vulnerable should now follow the same guidance as the clinically vulnerable population, taking particular care to practise frequent, thorough hand washing, and cleaning of frequently touched areas in their home and/or workspace. This group of people are required to stay 2 metres away from those outside of their household or bubble so this must also be in place.

The guidance says that in general all staff should try and keep their distance from pupils and other staff as much as possible, ideally 2 metres from other adults and they should minimise time spent within 1 metre of anyone. It is also accepted that this is not likely to be possible with younger children and the guidance states that "teachers in primary schools can still work across groups if that is needed to enable a full educational offer." Furthermore, the guidance states that staff should avoid close face to face contact and minimise time spent within 1 metre of anyone but it goes on to say that "it will not be possible when working with many pupils who have complex needs or who need close contact care. These pupils' educational and care support should be provided as normal." This is going to be particularly challenging for staff who have been categorised as clinically extremely vulnerable and possibly those who have been categorised as clinically vulnerable (including pregnant women) and schools will need to consider this in their risk assessments.

For those that are clinically extremely vulnerable some may be covered by the Equality Act 2010 and could seek potential reasonable adjustments as a result. Some Trusts are offering staff in that category a phased return in September to ensure all mitigations can be covered. Some Trusts are extending this to those that are clinically vulnerable, such as pregnant women, for example offering phased working during the first week of term.

These steps demonstrate that the Trust is a supportive employer and will build trust and buy-in with staff. They may also reduce risks of sickness absence, staff turnover, increasing need for supply staff and the potential for costly employment claims.

The guidance states that some administrative roles could still be done at home with no impact to the educational provision for pupils.

There may be some staff who feel incredibly anxious about returning to the workplace and are not clinically extremely vulnerable or clinically vulnerable. Our advice is that school leaders work to build trust with these individuals who have concerns. Listen to their concerns and do your best to reassure them.

Our advice is that you consider each case on its own merit and any health and safety concerns are taken very seriously and advice is sought. In any event, we advise that you seek advice on each case so that you are able to navigate the challenge in the best possible way.

A final point to consider here is what would happen with shielding if there was a localised lockdown. The immediate questions are:

- Is the employee under a relevant notification to shield?
- Has the employee been notified that they no longer need to shield?

If there is a localised lockdown, the shielding requirements would be reinstated. It is therefore recommended that you keep a rolling record of shielding instructions so that you can plan resource accordingly, especially if you are able to bring some clinically extremely vulnerable employees back into the workplace, albeit in the safest possible roles onsite.

Flexible working

Staff have needed flexible working to cope during the lockdown with many working from home as well as on school rotas. Research is demonstrating that many employees across the economy, including schools, will demand higher levels of flexible working than before Covid-19. In addition, research has shown that women have been particularly affected by the domestic implications of lockdown (such as childcare) and in a sector that is heavily female, schools need to be mindful of this. The school sector was already struggling with the challenges of this given the nature of what we do. During the summer, a number of Trusts are capturing the lessons learned from Covid-19 working arrangements and how to manage demand for flexible working. The DfE will publish webinars, articles and case studies of good practice.

Remote education

There is a whole section devoted to remote education in the guidance. It says that schools should be able to provide a remote learning offer for all pupils in the event of a localised lockdown or for those pupils who are self isolating.

Schools are encouraged to improve the quality of the current offer by giving pupils access to:

- High quality online and offline resources and teaching videos
- Teacher led content with high quality curriculum resources/videos
- Teachers who are regularly checking work from pupils
- Teachers interaction, ideally with daily contact.

There has been a lot of challenge regarding teachers delivering online lessons and safeguarding has been the main concern. The Government are urging schools to utilise free-to-use digital education platforms and have recommended EdTech Demonstrator Programme to see how schools are effectively using tech for remote education.

The Government have also provided links to various resources online with regards to mitigating safeguarding risks and the NSPCC have produced useful guidance.

Expecting teachers to deliver learning online is a completely new skillset that many teachers have never experienced before. Where schools encounter challenge from staff our advice is that you try to identify what the main concerns are and work with them to enable them to feel better about what you are asking them to do. For example:

- Identify a remote education team ideally made up of staff who are more at risk to be onsite
- Provide training to the remote education team as well as all staff in case of a whole school lockdown
- Training should include how to use video conferencing tools as well as making sure that privacy settings are covered in the content
- As a group watch a great example perhaps from the Oak National Academy and discuss together what makes it great and how that could be incorporated into your own practice
- Discuss the challenges of safeguarding and how you might mitigate those. You might decide that only pre-recorded or on-demand videos will be created which will enable staff to create them at a time that is most suitable to their circumstances. Or if you do decide to deliver live lessons, agree how you will deal with behaviour management and what updates are required in your Behaviour Policy.

Travel to work

In a recent survey published by CIPD, 9 in 10 employees surveyed (private sector employers) said that they would not be comfortable commuting on public transport at all during the rest of 2020.

For staff who travel by public transport to work many have concerns about the risk that they are then subject to by getting on the bus or the train. The government is encouraging staff, parents and pupils to walk or cycle to school. In these circumstances, speak with your staff and find out if there are other methods of transport other than public transport. You could:

- Make further car parking available for staff who choose to drive overusing public transport
- Consider adjusting start and finish times to allow staff to travel outside of the peak commute times
- Consider adjusting start and finish times to allow staff to be dropped off by members of their family using a car.

Teaching assistants

The guidance states that teaching assistants can cover lessons or lead lessons as long as it is under the supervision of a teacher. Teaching assistants can also deliver catch up and intervention work.

The guidance specifically says:

“Where support staff capacity is available, schools may consider using this to support catch-up provision or targeted interventions. Teaching assistants may also be deployed to lead groups or cover lessons, under the direction and supervision of a qualified, or nominated, teacher (under the Education (Specified Work) (England) Regulations 2012 for maintained schools and non-maintained special schools and in accordance with the freedoms provided under the funding agreement for academies). Any redeployments should not be at the expense of supporting pupils with SEND. Headteachers should be satisfied that the person has the appropriate skills, expertise and experience to carry out the work, and discuss and agree any proposed changes in role or responsibility with the member of staff. This includes ensuring that safe ratios are met, and/or specific training undertaken, for any interventions or care for pupils with complex needs where specific training or specific ratios are required.”

We are advising that the guidance accurately reflects that it is not a new provision - it is already available under existing legislation which states: (under the Education (Specified Work) (England) Regulations 2012/762 Instructors with special qualifications or experience)

“6. – Persons who may carry out specified work under supervision

(1) This paragraph applies to a person who carries out specified work in a school where—

(a) the person carries out such work in order to assist or support the work of a qualified teacher or a nominated teacher in the school;

(b) the person is subject to the direction and supervision of a qualified teacher or nominated teacher in accordance with arrangements made by the head teacher of the school; and

(c) the head teacher is satisfied that the person has the skills, expertise and experience required to carry out specified work.

(2) In this paragraph a “nominated teacher” means a person who is mentioned in [paragraphs 2 or 3] of this Schedule and who is nominated by the head teacher where the head teacher considers that appropriate in the circumstances.

(3) In determining whether the person mentioned in subparagraph (1) has the skills, expertise and experience required to carry out specified work in a school, the head teacher may have regard to –

(a) such standards for higher-level teaching assistants, or guidance concerning school support staff as may be published from time to time by the Secretary of State; and

(b) such guidance as to contractual matters relating to school support staff as may be published from time to time by any local authority or other employer.”

Furthermore, there is common practice in schools where the skills, experience or expertise is based on the qualification held by the teaching assistant. For example:

- Level 2 TAs could “assist the teacher in the management of pupils and the classroom”,
- Level 3 TAs could “supervise whole classes occasionally during the short-term absence of teachers. The primary focus will be to maintain good order and to keep pupils on task.”
- Level 4 TAs could take “responsibility for agreed learning activities under an agreed system of supervision. This may involve planning, preparing and delivering learning activities for individuals/groups or short term for whole classes and monitoring pupils and assessing, recording and reporting on pupil’s achievement, progress and development.”

Our advice is that whilst schools can have regard to the higher-level teaching assistant (HLTA) standards and the qualification criteria for TAs, it doesn’t mean the work must be done by a HLTA or a level 3 TA for example. If the work is being carried out in accordance with the above, as long as the head teacher is satisfied that for example the TA has the skills, experience or expertise to carry out the work and is under appropriate supervision and direction - then the regulations allow it.



Holidays

Staff should be available to work in school from the start of the academic year in September and head teachers have been encouraged to discuss holiday plans with staff.

The Government travel advice is to avoid non-essential travel unless it is to an exempt destination. The list of exempt destinations for non-essential travel is not identical to the list of countries for which travel corridors (i.e. no need to quarantine) have been agreed but it is very similar. There should therefore only be a very small group of employees who travel on holiday to an exempt destination but who still have to quarantine. In these circumstances, if they booked before Covid-19 and will lose money, it is our advice that you should try to accommodate. A similar approach can be taken if originally there was no quarantine requirement and this situation then changed without the ability to cancel.

If, however, the employee is attempting to go to a non-exempt destination, then you may wish to take a different approach - the individual would then need to provide their reasons why the travel was essential - if it was purely a holiday, it wouldn't be essential (and we expect that if its non-essential then the employee would be much more likely to be able to cancel it in light of Government guidance).

It is worth bearing in mind, that the travel could be deemed to be essential for the employee if it is for family reasons or related to a personal business. If non-essential and they still are going despite Government guidance and the need to quarantine for 14 days afterwards, then the school may wish to be more robust.

In terms of quarantine, where it is not possible to avoid quarantine after a holiday then the guidance states that the employee should work from home or take unpaid leave.

Changing the school day

Some schools are looking to change the timings of the school day. In these circumstances it is important to not only consider the change for staff but also the change for parents.

You will need to consult about the change to working hours/pattern. You may have a policy that sets out your procedure for this as well as timescales for consultation. You will also need to consider where you have staff who oppose the change and what you will do in those circumstances.

We have seen schools reduce a Friday to a half day. In those circumstances, staff may be happy to accommodate a change to the start and finish times on a Monday to Thursday in exchange for a shorter working day on a Friday, but really does come down to individual circumstances. Furthermore, you will need to consider that a change to the school day could also lead to restructures of other staff groups. For example, a shorter Friday with no afternoon break may lead to a reduction in working hours for staff who supervise pupils in break times.

For parents, there is no legislation that requires schools to consult about a change to the school day, however parents could bring a claim under public law. Our advice is that you take advice if this is something that you are planning to do. If the change is significant like shortening a Friday to a half day then it is more likely that working parents will find difficulty with the change and will challenge it. If the change is minimal regarding start and finish times then it is less likely to cause a problem.

Changing the school timetable

Staggered start times and lunch breaks, avoiding busy lesson changeovers and the need for increased cleaning regimes add layers of logistical complexity, especially for secondary, middle and high schools.

Significant changes to the school timetable could impact on the working hours of some teaching staff and teaching assistants. In a normal year, the timetabling would have been done long before now, giving the head teacher time to discuss the changes with staff. In these circumstances we are caught on the back foot and need to approach this flexibly.

Our advice is that you discuss possible changes with your staff and work with them to find a solution that will work. Check if the arrangements with your staff stipulate start and finish times and days to work. You may have flexibility to make a change provided that you give enough notice. It is likely that you will need to approach each case on a case-by-case basis and we encourage you to take advice before trying to force through a change that is not welcomed by the member of staff.

Black, Asian and Minority Ethnic (BAME) colleagues

There have been concerns raised about the impact of COVID-19 on BAME colleagues. Our advice is that school leaders build trust with BAME colleagues who have concerns. Listen to their concerns and do your best to reassure them without them feeling pressured to return. Consultation and engagement are crucial and advice should be sought if any employee has continuing concerns about their health and safety .

Also consider the BAME risk assessment model that has been put together by BAMEed. BAMEed has five calls to action:

- Protection of staff which includes risk assessments;
- Engagement with staff and relevant networks;
- Representation in decision making;
- Bespoke and continuing health and wellbeing support throughout and beyond the crisis; and

Communications and media which include BAME colleagues to create positive representations.

You will have your own risk assessments in place, but BAMEed has produced helpful guidance [here](#).

Resource challenges

The guidance states that supply teachers and other visiting staff are able to move between schools. Furthermore, staff are able to move between groups and bubbles in order to deliver the educational provision to pupils.

With that in mind and provided that contracts allow it, MATs should be able to share staffing resource between schools in order to plug resource gaps where they emerge.

Some Trusts are undertaking over-recruitment of trainees or newly qualified staff to ensure flexibility to cover for any absences and phased returns. This presents an additional cost but could save on supply costs and may work well across clusters of schools.

During lockdown many Trusts and schools have continued to recruit staff using virtual recruitment methods. It would be sensible to continue with these arrangements at the start of the academic year to minimise people coming into the school environment.

Volunteers can also be used to support the work of the school and usual checks and risk assessments should be carried out in line with Keeping Children Safe in Education.

The Government is also encouraging schools to consider hosting ITT trainees to support the work of schools.

Other changes of note

There are to be no large gatherings, e.g. assemblies.

Use of staff rooms should be minimised, although staff must still have a break of a reasonable length during the day.

There may be a need to increase resource and working hours for cleaners to accommodate the increased cleaning regimes that may need to take place throughout the day. E.g. cleaning in between lunch sittings, etc.

There may be a need to vary job descriptions to include for cleaning done by midday meals supervisors and possibly other staff in school too.

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