

STAYING SAFE IN SCHOOL DURING COVID-19 - SUMMARY OF ADVICE TO TRUSTEES

This note summarises our detailed legal advice to Trustees on re-opening and remaining open and should be read in conjunction with that advice.

Key Relevant Legal Duties and Responsibilities	Recommended Actions for the Management and Mitigation of Risk
Health & Safety Duties (Health & Safety at Work Act 1974, Management of Health and Safety at Work Regulations 1999 (also the common law of tort))	
<p>Duty on the organisation to take reasonable care for the safety of those persons its operations might reasonably affect. This responsibility extends beyond staff, pupils, contractors and visitors to their families and the wider community.</p> <p>Regulations impose a duty on employers to:</p> <ul style="list-style-type: none"> • Identify what could cause injury or illness in the workplace • Decide how likely it is that someone could be harmed and how severely • Take action to eliminate the hazard, or if that's not possible, take measures to control the risk 	<ul style="list-style-type: none"> • Carry out ongoing risk assessments • Seek advice from local Public Health England officers • Improve data through local/targeted testing • Ensure reporting and recording of risks • Implement and review policies and action plans • Take action to enforce risk measures • Update messaging
Employer Duties (s44 and s100 Employment Rights Act 1996 and Equality Act 2010)	
<p>Employees have a right not to be subjected to any detriment in cases involving health & safety (e.g. docking pay for refusal to work) and not to be dismissed for raising a health & safety concern. Employers have a duty to make appropriate adjustments to address any disability or the impact of any disability (including any arising from a mental health condition which may have been brought on or exacerbated as a consequence of the COVID-19 situation).</p> <p>Rights under s44 now extended to workers as a consequence of The Employment Rights Act 1996 (Protection from Detriment in Health and</p>	<ul style="list-style-type: none"> • Implement Government guidance re social distancing • Review whistleblowing policy • Maintain effective communication with staff • Carry out regular staff surveys to assess wellbeing

Key Relevant Legal Duties and Responsibilities	Recommended Actions for the Management and Mitigation of Risk
<p>Safety Cases) (Amendment) Order 2021</p>	<ul style="list-style-type: none"> • Assess each staff member individually • Acknowledge at risk groups • Avoid “one size fits all” measures • Keep acknowledged conditions under review • Be aware of new conditions developing • Get advice before acting
<p>Education Establishment Duties (Safeguarding under Keeping Children Safe in Education and Working Together to Safeguard Children, duty to keep pupils safe and that their well-being is promoted under the Independent School Standards Regulations)</p>	
<p>General duty on Trustees to keep open schools unless it is not safe to do so or the school is directed to close by Public Health England, the Local Authority Designated Officer or the Joint Biosecurity Centre. Decisions to close schools or send pupils home (individually or in groups) remain with the Trustees, delegated to headteachers. Policies and action plans are expected to be “living documents”.</p>	<ul style="list-style-type: none"> • Reflect detailed safeguarding measures in school action plan • Ensure consistent communication across the Trust • Review operational policies e.g. Behaviour Policy • Carry out scenario planning and regularly test systems • Maintain pro-active communication with parents/carers • Appoint liaison officers/review leadership responsibilities • Be mindful of vulnerable pupils esp. those with SEN • Review EHCP provision in conjunction with LA

For more information, contact:

<p>School Support Service: SSS Telephone 0345 070 7437, Email schoolsupport@wslaw.co.uk</p>	<p>Schools HR: Schools HR Telephone 0345 026 8690, Email schoolsHR@wslaw.co.uk</p>
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