



May 2020

Dear colleague

As you know, the Department for Education (*DfE*) is continuing its plans to start the wider opening of schools from 1 June.

The position of the education unions is that the wider opening of schools should begin only when it is safe.

The *DfE* has placed the decision on wider opening on the shoulders of the employer and on you. It has, however, failed to provide clear and robust guidance that will ensure the health and safety of pupils, staff and the wider community.

We have drawn up a joint union checklist, which is comprehensive, and follows the guidance issued by the *DfE*, as well as incorporating the need for social distance as recommended by the Cabinet Office.

As you will be aware, the Health and Safety at Work Act 1974 places a duty on employers to ensure the health, safety and welfare of all employees and those of persons not in employment but who may be affected by the employer's actions (pupils, staff, and anyone sharing a home with pupils or members of staff).

There is other legislation that places duties on employers in relation to the protection of health and safety, including:

- Regulations 3 and 8 of the Management of Health & Safety at Work Regulations 1999

- Regulation 4 of the Personal Protective Equipment at Work Regulations 1992

- Regulation 4 of the Workplace (Health, Safety & Welfare) Regulations 1992

- Regulation 7 of the Control of Substances Hazardous to Health Regulations 2002

In addition, it is implied in every contract of employment that an employer will protect the employee's health and safety. We recommend that you remain alert to these duties when you are assessing whether your school is safe to be opened more widely.

We appreciate that a decision of this magnitude, with its serious implications, is not an easy one to make. Our reps are there to assist and support you in making that decision. We also believe that you should seek support from the local authority, although any decision does ultimately rest with an individual school.

We also appreciate that there may well be factors beyond your control that affect any decision you make, such as the local R rate, the availability of testing and tracking as well as the ability for pupils and staff to travel to and from school safely without a high risk of exposure to Covid-19.

We are clear the current situation is not the fault of the school, or its leadership, and that the school has to plan for all eventualities.

We will be advising members of their legal rights should any member contract Covid-19 upon returning to school.

We trust you will understand that we are not acting without good reason, but from the position that we all share responsibility for ensuring there is no second spike of Covid-19 in the UK.

Scientific evidence is yet to be released that establishes that the measures contained within the DfE guidance are capable of ensuring the risk to pupils, staff and the wider community is reduced to an acceptable level. We believe it is important you fully understand the potential liability you are exposing yourself to by following the current deeply flawed guidance.

The unions are asking you to ensure that a decision on the wider reopening of your school is taken in a manner which accords with the unions' advice on procedures and standards needed to ensure that safety can be maintained and which fully consults and involves our representatives and your employees.

The DfE itself states that schools should work closely with parents, staff and unions as they normally would, when agreeing the best approaches for their circumstances.