



A guide for supply teachers

Your guide from **ATL** - the education union

Legal advice series



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01 Introduction

Over the years, supply (substitute in Northern Ireland) teachers have made an unquestionable valuable contribution to the smooth running of schools and the raising of standards within them. Yet supply teaching is potentially more complex than teaching as a permanent member of staff. For supply teachers who come via an agency, the legal terms under which they are employed are sometimes all too ambiguous.

ATL offers this guide as advice on how to avoid some of the pitfalls and how to establish a good working relationship with schools whilst protecting, as far as possible, your employment rights.

The guide is in three parts: the first section deals with the technical issues before you start supply work, the second section covers practical points both before you arrive at your supply school and when you start, and the third section deals with pay and other issues such as insurance which might be relevant once you have started work.

Supply teaching in England, Scotland and Wales

In England, Scotland and Wales there are four main sources of supply teachers:

- pools of supply teachers maintained by a local authority (LA)
- the school's own external contacts
- part-time teachers working at the institution or locally who are willing, temporarily, to work extra hours
- employment businesses and agencies

The number of LA pools has reduced over the years with many authorities having either abandoned them or tendered the service to an agency.

The Department for Education (DfE) has abandoned its quality mark (QM) scheme. However, ATL advises members to check an agency is a member of the Recruitment and Employment Federation because in order to be a member the agency must meet the Federation's criteria. A list of member agencies can be obtained from www.rec.uk.com.

The Welsh Government, via the Department for Education and Skills (DES), intends to develop its own QM.

Teachers who are on the books of employment businesses and agencies are sometimes in a different (and often weaker) position than those in other categories.

Substitute teaching procurement in Northern Ireland is undertaken principally via the Northern Ireland Substitute

Teachers' Registrar (NISTR); see page 6 for further details regarding supply teaching in Northern Ireland.

Pre-employment checks in England, Scotland and Wales

The following checks are likely to be undertaken prior to your offer of employment:

1. Identity

An employer may verify your identity by reference to your passport or birth certificate.

2. Permission to work in this country

Prudent employers, agencies and schools will ensure that all employees have permission to work in the UK.

3. Qualifications

You are likely to be asked to produce a notification from the DfE, (or any of its predecessors or the DES) that you hold qualified teacher status (QTS) or the certificate of registration from the General Teaching Council in Scotland (GTCS). To teach in a maintained school in Wales you will need to be registered with the General Teaching Council in Wales.

With effect from 1 April 2013 the National College of Teaching & Leadership (NCT&L) assumed responsibility for the regulation of teacher conduct in England.

The NCT&L has taken over the regulatory role with regards to misconduct cases but only in instances where they are referred to them by a headteacher,

another organisation (ie the police) or by a member of the public. Cases of teacher competence will be addressed in individual schools by the headteacher. ATL will monitor the progress of the NCT&L over the coming months and years.

4. Health

You must be mentally and physically fit to be able to teach. You may be required to attend a medical.

5. References

Your employer or the agency is likely to check with your previous employer and with other referees. Some agencies can be unwilling to take on a teacher who presents an “agreed” reference which is produced as part of a settlement agreement (previously compromise agreement). Any indication in a reference that it is agreed should be removed.

6. Employment history

Your employer will wish to track your record and may ask you to explain any gaps in your employment history.

7. QTS

As stated above, your employer will seek documentary proof of QTS or evidence that you fall within one of the exceptions from QTS, such as teachers trained outside the European Economic Area (EEA), for example. For further information please see the section entitled, ‘Overseas trained teachers and supply work’ below.

Supply teacher members in Scotland and Wales should check the relevant GTC website for guidance on registration. If

you obtained QTS after 7 May 1999, the employer will wish to see evidence that you have successfully completed the statutory induction period.

8. Verification of non-European economic area qualifications

Advice on the level and standard on non-European economic area overseas teaching qualifications is available from the UK National Academic Recognition Information Centre website at www.naric.org.uk.

9. Criminal records

The Rehabilitation of Offenders Act 1974 does not apply to teachers and you should be aware that, if requested, you must give details of all criminal convictions (including cautions) including those that would normally be regarded as spent under the 1974 Act. You must ensure that the details you provide are correct and up to date. The declaration you make will be verified by the document that you receive from the Disclosure and Barring Service (DBS).

This document will also show whether you are barred from working with children and/or vulnerable adults.

Disclosure and Barring Service

There are three different types of disclosure that the DBS provide depending on the position applied for and the type of work involved. Teachers and support staff in schools will require the highest level of DBS check.

The individual completes the necessary form and agencies do tend to require the

individual to meet the cost of the check (£44 as at January 2014). This is a practice that ATL is very much against and we continue to work with other unions to change this. For the cost of £13 per year an individual can obtain an annual subscription to the DBS, which enables them to take the certificate from one job to another.

The DBS certificate is sent to the individual first so that they may check that it is accurate and challenge any additional information added by the police. The DfE suggests that supply teachers should be checked every three years. However, if a supply teacher has had a break in service of three months or more then they may be expected to provide another DBS disclosure (unless subscribed to the annual service). More information is available from the Disclosure and Barring Service at www.gov.uk/government/organisations/disclosure-and-barring-service.

The Protecting Vulnerable Groups Scheme in Scotland

The Protecting Vulnerable Groups Scheme (PVGS) was introduced in Scotland in February 2011 to replace the system of teachers working across different LAs and employers thereby undertaking multiple disclosure checks. Teachers cannot work in state maintained schools in Scotland without becoming a member of the PVGS, which is operated by Disclosure Scotland. More information is available from the Disclosure Scotland website at www.disclosurescotland.co.uk.

Further details on the PVGS can be found in ATL's advice sheet entitled, Protecting Vulnerable Groups Scheme (Scotland), which can be downloaded from ATL's website at www.atl.org.uk.

The employment status of supply/substitute teachers in England, Scotland and Wales

Supply teachers who are in a pool maintained by the LA, those located through the school's own contacts, or part-time workers who wish to temporarily increase their hours, are likely to be employees of the school or LA for their period of supply work. As a result they will qualify for the numerous protections and benefits that arise from such status. These include:

- in England and Wales, the right to be paid in accordance with and by reference to the School Teachers' Pay and Conditions Document (STPCD) and in Scotland, the Scottish Negotiating Committee for Teachers' (SNCT) Handbook of Conditions of Service. There is no STPCD in either academy or independent schools, they can therefore set their own levels of pay
- the right to be a member of and make contributions towards the Teachers' Pension Scheme (TPS) or the Scottish Teachers' Superannuation Scheme (STSS). This right also applies to supply teachers in academies in England
- the right to a redundancy payment provided he/she has at least two years' continuous service (for further

information see ATL's publication entitled, *Redundancy*)

- the right not to be unfairly dismissed provided he/she has at least two years' of continuous employment with the same employer.

Working through an agency in England and Wales

The Agency Worker Regulations 2010 came into force on 1 October 2011, bringing important changes for teachers placed by supply agencies. The regulations give teachers placed in this way the following rights.

From day one of the placement:

- equal access to collective facilities, such as staffrooms and canteens
- information about, and the opportunity to apply for, vacancies in the school.

After 12 weeks in the same job with the same employer:

- equal treatment on pay
- equal treatment on holidays
- equal treatment on limits on working time
- improved maternity/paternity/adoption rights.

The supply teacher does not become a permanent employee after 12 weeks. The qualifying period of 12 weeks must be continuous, although some breaks will only pause the continuity (for example the summer holidays).

During the 12 week period the individual must work in the same role. ATL's view is that all classroom teaching carried out by

a supply teacher will be the same role irrespective of the subject and age range of children taught in any school.

For further information about these rights please download a copy of ATL's advice sheet, *Supply Teachers: Working Through an Agency* at www.atl.org.uk/factsheets.

Supply teaching in Northern Ireland

Supply teaching acquisition in Northern Ireland is undertaken via the NISTR. The NISTR online booking system for schools was developed jointly by employers and the teachers' unions, and is supported by the Department of Education Northern Ireland (DENI) and endorsed by the General Teaching Council for Northern Ireland (GTCNI). This system provides an online regional database of qualified teachers who provide substitute (supply) cover for schools throughout Northern Ireland.

One of the main benefits in operating a centralised approach is to avoid the duplication of effort among the employers and substitute teachers in all the recruitment, application and selection procedures that have to be undertaken. Importantly economies of scale are also achieved in reducing the administrative costs associated with undertaking checks of references, qualifications and criminal records.

All teachers registered on NISTR have an initial pre-employment criminal record check carried out and have vetting checks conducted every two years thereafter. The application process to join

NISTR also includes a check that teachers are considered 'eligible to teach', satisfy relevant health requirements and are registered with the GTCNI.

The system uses the E-teach Supply Pool software to provide a central real-time substitute booking system which operates on a geographical basis to serve the whole of Northern Ireland.

GTCNI

The DENI circular 2006-7 issued in March 2006 advised schools that only teachers registered on the NISTR should be employed as substitute teachers from 1 September 2006. In accordance with the Education (NI) Order 1998, persons employed as teachers in grant-aided schools and peripatetic teachers are required to register with the GTCNI. The GTCNI is a self-regulatory professional body for teachers, which has a statutory duty to determine who should be a member of the teaching profession in Northern Ireland. As part of its registration process, the GTCNI will approve qualifications for the purpose of registration and eligibility to teach.

NISTR will carry out a check that teachers are registered with the GTCNI (and periodic checks that they continue to be registered), in order to maintain their details on the register, which is made available to schools seeking substitute teachers.

Teachers seeking to register with the GTCNI can obtain application forms directly from the council's website at www.gtcni.org.uk.

Enhanced disclosure in Northern Ireland

From 1 April 2011, DENI ceased funding for enhanced disclosure checks, in respect of criminal background, carried out by the NISTR administrators for substitute teachers. Applicants wishing to join NISTR are therefore advised to contact NISTR administration by telephoning **02890 564000** to determine if they will be required to apply to have an enhanced disclosure check carried out before being released to the active pool of the NISTR register. In all cases where an enhanced disclosure check is required substitute teachers are responsible for the payment of the full cost involved.

If you want to work as a substitute teacher in Northern Ireland and would like to find out more about registering with NISTR please contact the administrators on **02890 564000** or visit their website at www.nistr.org.uk.

Overseas trained teachers and supply work

If you are a qualified teacher from within the EEA, or a qualified teacher from Australia, Canada, New Zealand or the United States you do not need to undergo any further period of teacher training before teaching in England. You can apply to the NCT&L for QTS. Overseas trained teachers (OTTs) wishing to work in Northern Ireland, Scotland or Wales should contact the relevant GTC to see if they are eligible for registration and therefore employment.

If you are an OTT from outside the EEA (and not from one of the countries mentioned above) you can do supply work for up to four years without QTS. Thereafter you will need to gain QTS. For further information please contact the NCT&L.

Newly qualified teachers and supply work

The induction period can be started if the newly qualified teacher (NQT) begins a supply post for one term or more. You must not assume that the term(s) will automatically count towards your induction. Rather, you must agree this with the headteacher so that an induction programme will be in place once you start work. You should not delay your induction. A qualified teacher, who has not completed an induction period, can undertake short-term supply work of less than one term in a relevant school from a maximum period of five weeks from the point of award of QTS. This is a fixed time limit with no discretion to extend.

Short-term supply placement of less than one term, or equivalent, cannot count towards induction, as such posts will not provide an NQT with the breadth of experience, support and assessment necessary to enable them to demonstrate that they have met the relevant standards. Further induction guidance is available from ATL's website. NQTs in Wales and Northern Ireland should consult the relevant GTC for the conditions governing them and supply work.

In Scotland all eligible graduates are offered a guaranteed probation period through the teacher induction scheme, where they must complete 190 days full-time teaching service. This does not always suit everyone's needs, however, and the option also exists to complete the probation period through the flexible route, details of which can be found on the GTCS website.

Before you start – questions you should ask

Before you start working as a supply/substitute teacher it is important that you establish clearly the terms and conditions of your employment.

In the case of agency supply teachers, the terms and conditions under which you will work are likely to be set out in a written contract to be made with the agency (sometimes supplemented by a handbook). Supply agencies are required by law to give each teacher a written statement containing details of his/her terms and conditions.

If you work as a supply teacher in an LA-maintained pool or directly with a school, you should make sure your terms and conditions have been set out in writing. You should ensure that you fully understand the contents of any documentation that you receive and are asked to sign. If you are in doubt as to any of the terms seek clarification from the employer or the supply agency and, if doubts persist, contact ATL for advice and guidance.

In terms of you receiving payment, the employing authority or agency should have advised you of the procedure to be followed to enable you to receive your payment promptly. It is likely that any payment due to you will be conditional upon the submission of the appropriate paperwork and forms at the correct time.

Questions you should ask include:

- How will you get paid (for example, by cheque or credit transfer)?
- When will you get paid (weekly or monthly)?
- Are there any notice provisions by which the assignment may be brought to an end? This is particularly important for teachers engaged on a lengthy supply arrangement.
- What is the rate of pay for a full or half day of supply work? If appropriate, what is the hourly rate?
- What are your obligations when attending school? Have they been spelt out clearly?
- Is there a disciplinary procedure applicable to you?
- If you have any concern or grievance, are you able to raise it and, if so, through what channel?
- Are there any provisions in the contract that may restrict your employment in the future? For example, is there a clause stipulating that should the school offer you permanent employment that you wish to accept, this will involve them paying a release fee to the agency for whom you've been working?
- If you are unable to attend work due to sickness, are there any provisions for sick pay (which is most likely to be statutory sick pay in any event)?
- If you become pregnant, is there an entitlement to maternity pay or leave?
- Who bears responsibility for making deductions for national insurance and tax purposes? Is it to be you, the school, the LA or the supply agency? In many supply agency contracts, the responsibility for making these deductions rests with the supply agency.

- What is the insurance position if, for example, something goes wrong in the classroom?
- Who is responsible for the day-to-day supervision of your work? Has a line manager been identified to whom you can refer, taking into account the level of your skills and experience?
- What happens if, for whatever reason, you are unable to attend for work at a particular institution? Will this result in the arrangement between you and the LA, school or supply agency coming to an end?
- Are you obliged to accept an assignment offered to you?
- If you are ill, what steps do you have to take to advise, for example, the LA, school or supply agency that you are not fit to attend for work?

When in post you are likely to be subject to the following general professional duties:

- To cooperate with staff at the school.
- To accept the supervision and reasonable instruction of an appropriate line manager.
- To observe the rules applicable to the school; if you have any concerns (for example, about pupil discipline) you should identify these rules as quickly as possible (by liaison with the line manager).
- To work the normal hours of work at the school (subject to any specific contractual arrangement to the contrary).
- To take reasonable steps to safeguard the health and safety of yourself, other members of staff at the school and, of course, the pupils. If you have any concerns about health and safety you

should, with the assistance of the line manager, locate the health and safety policy and ensure that you comply with its contents.

- Not to act in manner that is detrimental to the school.
- To keep confidential any information you acquire in your work in relation to the school, LA or supply agency.

The STPCD clearly states that when supply teachers are used to provide cover they must, as far as reasonably possible, be actively teaching and not merely supervising pupils.

Further, that supply teachers should be managed properly in terms of their teaching and developmental needs. Therefore, they should have appropriate access to CPD in order to maintain their standards of subject knowledge, pedagogy and behaviour management skills.

On arrival at the school

On arrival at the school, you should be provided with the following information, particularly if you have not worked there previously. If you are not provided with this information then you should ask for it.

Some of the following points will not apply in all situations. In particular, the distinction between supply work in the primary and secondary sectors is recognised.

The information you should be provided with or obtain includes:

- Who arranges supply cover and who is to be your line manager at the school?
- What are the names of the heads of departments, key stage and subject coordinators and the senior management team?
- Are there any special instructions about gaining entry to the school premises?
- What are the timings of the school day and how are they indicated?
- What time are staff expected to arrive?
- Do bells mark the end of lessons and school sessions?
- What are the arrangements for assembly and registration?
- Are you expected to do extra duties, eg bus duty? If so, will you get paid for it? If not, should you be paid?
- Are you expected to attend staff training days, staff meetings and parents' evening? Again, will you, and should you be paid?
- What are the lunch and break arrangements?
- Where are the classrooms/teaching spaces?
- Is there any information about the layout of the school? Is there a plan or map showing the location of rooms? If so, you should receive a copy.
- Where is the staffroom, cloakroom and lavatory?
- Is there somewhere, for example a locker, where you can store your personal belongings safely and securely.
- Does the school have a lesson routine? For example, are classrooms locked at the end of a school session?
- Do pupils line up outside the classroom before the lesson commences?
- Is there a seating plan or can pupils choose their own seats?
- Should pupils have certain books (for example, a textbook and exercise book) and equipment (for example, a pen or pencil) with them?
- Do you call a register every lesson?
- Have you been provided with a list of pupils in the class you are covering?
- Are you expected to teach pupils or are you supervising lessons only? If you are expected to teach a group of pupils, have you been provided with sufficient information about, for example, teaching resources? It will not be appropriate for you to be asked to carry out certain teaching tasks if you have not got the relevant qualification and experience, for example, supervising science practicals and PE.
- Has work been set for the class or classes you are covering and if so, where can it be located? Are you expected to set work yourself?
- Do pupils record their work in exercise books, on paper or in some other way?
- Is there any guidance about marking, recording and assessment (if this is appropriate to the supply assignment)?
- What are the arrangements for dealing with pupil discipline and disruption? It is particularly important to obtain clear guidance on the school's policy on the physical restraint of pupils.
- Are any ancillary or support staff to work in the classroom while you teach? Are they in the classroom to support a specific pupil or are they to be deployed as you deem appropriate?

- Do any of the pupils have any medical condition(s) of which you should be aware? Will you be asked to administer medication (you are not contractually obliged to give medication or supervise pupils taking it)?
 - What are the arrangements if a child is sick?
 - What are the arrangements for wet weather during outside activities?
 - What are the procedures if there is an emergency eg a fire?
 - Is there a dress code (or any other code) that concerns you as teacher?
 - Is there a school uniform?
 - Have you been told whether there are any children in the class with special educational needs?
 - Are there any statement pupils? From whom did you get this information?
- *the provision of information about the abilities and prior attainment of the pupils in the class*
 - *effective management so that all involved understand what is required and the professional standards that must be met.”*

From paragraph 83 of the 2013 STPCD.

The role and duties of a supply/substitute teacher

In general, supply teachers (other than agency teachers) are required to carry out the functions and tasks assigned to teachers, as set out in the annual STPCD and the SNCT handbook of Conditions of Service. Equivalent obligations may be placed on agency supply teachers. However, due to the temporary nature of their employment, there are certain obligations that cannot and should not be placed on supply teachers.

A supply teacher is likely to be expected to carry out work in the same way as any teacher. This could include break duties, seeing pupils on and off the premises and supervising classes, other than the ones he/she is expected to teach, because of the absence of another teacher. If a supply teacher is in school for only a few days, it is unlikely that she/he will be required to attend any staff meetings, parents' evening, or any other of the activities which form part of directed time of teachers. If the supply teacher is at the school for longer she/he may be required to attend such meetings and/or activities.

ATL has produced a handy checklist for supply teachers when commencing a new assignment. It can be downloaded from ATL's website at www.atl.org.uk/supply.

This guidance is underpinned by the STPCD which states that schools are encouraged to adopt good practice in the use of supply teachers. This includes:

- *“careful induction into the school using materials that are matched to their period of employment*
- *the provision of simply structured and clearly explained medium-term and short-term plans that also define the teaching expectations, the resources to be used, the demands that should be made of the class and the homework that should be set*

Pay

The basis for the payment of a supply teacher employed in a maintained school in England and Wales (other than for teachers engaged by an agency) is the STPCD. Since September 2013, schools are able to determine the starting salary of all teachers without reference to any previous salary they may have previously been paid. Supply teachers need to ensure that they agree the rate of pay they will receive for each placement. ATL urges schools to recognise previous experience when determining pay for assignments.

It is unusual, but not impossible, for supply teachers to receive TLR payments or other allowances. A mandatory special needs payment must be added if the teacher:

- is teaching wholly or mainly stated pupils in designated special classes
- is taking charge of special classes consisting wholly or mainly of children who are hearing or visually impaired
- is teaching in a special school.

In England and Wales, the teacher's salary may be calculated by reference to an hourly or daily rate, depending on the circumstances. The following methods are used for calculating the rates of pay:

- the daily rate equates to the annual salary divided by 195
- the hourly rate equates to the daily rate divided by the number of timetabled teaching hours in the school day at that school.

Academies and independent schools are not bound by the STPCD and can set

their own rates of pay. Teachers working in Scotland should refer to the SNCT (see below) and teachers working in Northern Ireland should refer to NISTR.

In spring 2011, significant and detrimental changes were made to supply teachers' terms and conditions in Scotland as part of the SNCT negotiations on teachers' pay and conditions agreement 2011-13. Full details of what these mean for supply teachers in state maintained schools in Scotland can be found at www.snct.org.uk.

Pay progression

Progression on both the main and upper pay range is linked to your performance.

Recommendations for progression are made in the review statements at the end of each appraisal cycle. Unless you work regularly at a school it is unlikely that you will have performance appraisal objectives set and so there is unlikely to be a review to recommend progression. If you regularly work in one school then you should discuss with your line manager or headteacher how your performance will be assessed.

Threshold applications

In England and Wales, a teacher must be recommended through performance management to cross the threshold. It is now increasingly difficult for supply teachers to cross the threshold as many are denied access to performance management. If you regularly work in one school you may wish to speak to the headteacher to agree that you will be

performance managed within that school for the purpose of crossing the threshold. In Northern Ireland, teacher participation in the PRSDS is a necessary requirement in respect of pay progression on all salary scales.

Pensions

Supply teaching, like part-time teaching, is automatically pensionable if you are employed through the LA or directly by a school, including academies. If you do not wish to contribute to the TPS then you need to ensure that you complete an opt-out form (available from www.teacherspensions.co.uk).

Teachers working in independent schools should check to see if the school offers admission to the TPS.

Teachers placed by agencies will not be able to contribute to the TPS. The Agency Workers Regulations do not cover pensions and so even if you qualify for equal treatment you will not be permitted to join the TPS.

Teachers working in Northern Ireland should contact the NISTR at www.nistr.org.uk for information regarding pensionable service.

Retired teachers undertaking supply work

If you are in receipt of a pension from the TPS then you may be limited as to how much you can earn before this affects your pension. You must inform the TPS that you are working. Full details can be

found in our pensions factsheet entitled, *Re-employment after Retirement*, product code PEP07 available from ATL's website at www.atl.org.uk/pensionfactsheets.

Tax and national insurance

Supply teachers employed by a LA or school will have tax and national deductions made under the LA or school's arrangements.

Teachers working through a supply agency are likely to have these deductions made by the agency.

Supply teachers who are self-employed will be responsible for making their own tax and national insurance arrangements – including completion of self-assessment forms with HMRC, for more information go to www.hmrc.gov.uk.

Keeping records

Supply teachers must keep careful records of the dates on which they are employed, together with their salary slips. It is important that teachers keep these records and salary slips permanently. It is not the responsibility of the employers to keep them.

They may be needed many years later to investigate the amount of service for salary or pension purposes. This applies to all teachers, agency teachers included, whatever type of contract they have. Self-employed teachers will also need to keep such records for self-assessment of tax.

Umbrella companies

An umbrella company is a company that acts as an employer to agency contractors eg supply teachers. The recruitment agency issues the contract to a limited company set up by the worker. This reduces the agency liability. The company then submits invoices to the recruitment agency (or client) and, when payment of the invoice is made, will in turn pay the worker through PAYE; with the added benefit of offsetting some of the income by claiming expense such as travel, meals and accommodation. The worker will have a contract for services and so are not employees of the school or the agency.

Supply teachers may also be directly employed by an agency, which means that they are employees of the agency and possess a contract of employment.

Further information regarding umbrella companies can be obtained by visiting www.contractorumbrella.com. The decision to use or not to use an umbrella company is a matter for each individual supply member as personal circumstances will differ. ATL cannot provide individual advice on this issue.

The Workload Agreement (England and Wales only)

The national Workload Agreement was signed in 2003 by the then Labour government, the Welsh government and most of the major national teachers' and general workers' unions. The primary aim of the agreement was to tackle the on-

going problem of excessive teacher workload by introducing the following reforms:

- A reasonable work-life balance (with headteachers responsible for ensuring this).
- Teachers not routinely being required to undertake administrative tasks.
- A timetable to provide for the reasonable allocation of time in support of a teacher's leadership and management responsibilities.
- A limit on the amount of cover for absent colleagues they can be required to do in each academic year so that teachers rarely cover for absent colleagues.
- No invigilation of external examinations.
- A guaranteed 10% of timetabled teaching to be used as preparation, planning and assessment (PPA) time during the school day.

At national level, the government established the Workload Agreement Monitoring Group (WAMG), a tri-party body comprising of government, employers and unions, tasked with ensuring compliance with the terms of the agreement by all signatories. At the same time, local WAMGs were established on an LA basis, with an identical remit as the national one. However, the national WAMG was abolished in 2010 by the coalition government.

The agreement emphasised the important role supply teachers and the unique value of their contribution. In addition, and in order to facilitate the much needed

changes in teacher workload, the agreement established two new support staff roles: the higher level teaching assistant (HLTA) and the cover supervisor.

Higher level teaching assistants

“To complement the professional work of teachers by taking 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.”

Level 4 Supporting and Delivering Learning Model Job Profile (Preamble)

This agreed definition of the HLTA role can and is undermined in the following ways:

- by using HLTA predominantly or exclusively to cover PPA time
- by loosely interpreting the phrase “short term” to mean anything up to a whole term or even longer
- by expecting HLTAs to plan, prepare and deliver lessons to whole classes – in other words teach.

Such abuses impact directly upon both HLTAs, who are not paid the going rate for the tasks that they are carrying out, and upon supply teachers, who are not being engaged by schools who prefer to use HLTAs as a cheaper option.

Cover supervisors

“Cover supervision occurs when no active teaching is taking place and involves the supervision of pre-set learning activities in the absence of a teacher.”

Guidance for Schools on Cover Supervision, WAMG

Cover supervision was defined by WAMG as:

- supervising work that has been set in accordance with the school policy
- managing the behaviour of pupils whilst they are undertaking this work to ensure a constructive environment
- responding to any questions from pupils about process and procedures
- dealing with any immediate problems or emergencies according to the school’s policies and procedures
- collecting any completed work after the lesson and returning it to the appropriate teacher
- reporting back as appropriate using the school’s agreed referral procedures on the behaviour of the pupils during the class and any issues arising.

But as with HLTAs this narrow and precise definition of the role of cover supervisor is too often more honoured in the breach. For example, schools continue to use cover supervisors to fill in for teachers taking PPA time and for periods longer than the precise definition of short term laid down by WAMG.

Tackling the abuses

The task of policing the implementation of the spirit and letter of the Workload Agreement was made more difficult in 2010, when the government moved away from the concept of social partnership with the unions and abolished the national WAMG.

However, the Workload Agreement itself is extant, and all parties to it; schools, employers and unions, are bound by its terms. So, for example, any deployment of HLTAs, cover supervisors or other support staff in inappropriate roles is a breach of the Workload Agreement, and should be challenged by the unions and individual members of staff.

In particular, individual schools have a clear responsibility to ensure that support staff are not exploited:

“Schools should review their individual cover policies to ensure that these activities are only undertaken by those members of staff with appropriate levels of skills, status and experience and that any necessary training is provided.”

“It is vital that schools have distinct and documented cover and PPA policies in place that define the roles and responsibilities of support staff members. These policies need to be communicated to and understood by all school staff. If members of support staff are required to deliver specified work, the school will also need to have in place a written system of supervision.”

Both quotes taken from WAMG Guidance Note 22, *The Appropriate Deployment of support staff in Schools*.

If you are made aware of instances where schools are acting in violation of their obligations in relation to cover and PPA time, please speak to either the ATL rep at the school or your local branch secretary and ask them to take the matter up with the headteacher.

Duty of care

ATL takes a strong line on assaults against teachers and expects schools to exercise the same duty of care towards supply teachers as they do their permanent staff. Therefore the school policy on discipline should be equally applicable to supply teachers and any cases of assault dealt with robustly as would be the case with a permanent member of staff.

Any member who is assaulted by a pupil should contact ATL for advice.

Inspection and supply teachers

Ofsted, Estyn and Education Scotland inspectors are expected to visit classes taught by supply teachers. The evaluation criteria are the same as for classes taught by other teachers. In Northern Ireland see the DENI website at www.deni.gov.uk for information regarding inspections.

Restrictions on future employment

Some supply agencies impose restrictions on the employment of teachers who sign up with them. These restrictions include posing significant financial penalties on the schools/LAs

who contract with the agency. ATL is aware of at least one contract that contains a direct prohibition on the teacher taking up employment with an LA to which she/he has been assigned via the agency in the preceding six months. This therefore excludes teachers from the potential benefits they would enjoy if they worked for an LA ie the statutory protections referred to above and the more beneficial rates of pay under the STPCD.

Such restraints represent a major disincentive to schools/LAs considering offering employment and prevent those teachers with whom they have established a successful working relationship from taking up employment on more conventional and acceptable terms.

Supply support staff

Some supply agencies provide teaching assistants, nursery nurses and other support staff to schools. Registration requirements do vary. Many agencies ask for specific qualifications, such as a cache level 3 diploma in childcare and educations and/or substantial experience of working with children.

Support staff will be expected to provide evidence that a DBS check has been carried out.

There are no national pay rates for support staff. Agency pay rates vary and are normally linked to qualifications and experience.

Insurance

On the use of supply teachers, DfEE (as then was) Circular 7/96, provides guidance at paragraphs 19 to 25 on the different types of insurance an employer should have in place. These paragraphs contain a comprehensive assessment of the position and are set out in full:

Employers' liability insurance

19. Employers may be liable for the costs of injury sustained by their employees in the course of their employment. The Employer' Liability (Compulsory Insurance) Act 1969 requires most employers to take out insurance to cover this risk; LAs as employers are exempt from that Act as they are assumed to be able to carry their own risk if they wish (self-insure).

20. Where the LA is the employer, employers' liability cover will be provided under the LA's own arrangements. In voluntary-aided schools the governing body is the employer, and is required to make the necessary insurance arrangements.

21. Whenever cover is provided or arranged by the LA, it should ensure governing bodies are aware of the nature of cover as it affects those employed at the school.

22. Foundation, non-maintained special, free schools, academies and independent schools are responsible for arranging their own cover for employers' liability insurance.

23. Advice from the Association of British Insurers (ABI) is that a typical employer liability insurance policy incorporates a wide definition of “employee.” This includes anyone supplied to, hired or borrowed by the insured. ABI have advised that provided insurers are advised at the outset of any intention to use agency or self-employed supply teachers appropriate cover can be provided. LAs or schools are strongly advised to ensure that their insurers are made aware of any use of such supply teachers.

Public liability insurance

24. School governing bodies may also be liable for the costs of any injury to third parties (including pupils) if this can be shown to be caused by the negligence of the governing body. DfEE (as it then was) Circular 2/94 makes clear that the Secretary of State expects the LA to make arrangements to cover such risks on behalf of the governing bodies of maintained schools, including those which are voluntary-aided. The LA may act as insurer or arrange external insurance to cover the potential liabilities of governing bodies. Grant-maintained, non-maintained special and independent schools must make their own arrangement for cover.

25. Advice from the ABI is that a typical public liability insurance policy will cover the governing body’s liability for the consequences of acts undertaken by all teachers, regardless of their employment status.

Schools will wish to be clear about what cover is provided in respect of both employers’ liability and public liability insurance by checking either with the LA where appropriate or direct with their insurers.

These paragraphs provide a degree of reassurance to members if, for example, an accident occurs in the classroom. However, members concerned about their position at the school should seek clarification and confirmation from their line manager, preferably in writing, that they are covered by the school’s insurance policies.

Some agencies’ terms of business require the receiving school or LA to provide employers’ liability insurance even though the school does not formally employ the staff. One supply agency in the FE sector makes it a fundamental condition of the contractual arrangement that the lecturer takes out professional indemnity insurance (at her/his own expense) to cover any potential claims for negligence.

Found this useful? ATL has lots of other resources, all free to members, which you might be interested in. Visit ATL's website at www.atl.org.uk to view the full range of legal advice publications and factsheets on offer from ATL, along with a full section of help and advice.

Finished with your copy? Pass it on to other colleagues who might find it useful.

Further relevant publications from ATL include:

Bullying at work

Product code: PE29

Violence, threatening behaviour and abuse

Product code: PE28

Industrial action

Product code: PE17



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