

# **The Educational Institute of Scotland**

## **RISK ASSESSMENT – DUTIES OF TEACHERS**

### **Background**

- 1.1 The AGM in June 2009 remitted the following motion:  
  
“This AGM rejects the proposition that conducting and/or signing off on risk assessments forms part of a teacher’s duties under the 21<sup>st</sup> Century Agreement.”
- 1.2 Information on the legal requirements for risk assessment and advice on the risk assessment process is provided in the EIS Health and Safety Handbook which is issued to all EIS Safety Representatives and in the EIS policy paper on Risk Assessment (2007) (Appendix A).
- 1.3 Since August 2007 the contractual requirements on teachers from the 21<sup>st</sup> Century Agreement have been set out in the SNCT Handbook of Conditions of Service, Part 2: The National Scheme of Salaries and Conditions of Service for Teachers and Associated Professionals. Part 2, Section 2 of the SNCT Handbook outlines the duties (Appendix B).

### **Contractual Positions**

- 2.1 There is no contractual requirement on unpromoted teachers to undertake or to sign off risk assessments. The list of duties, SNCT Handbook, Part 2, paragraph 2.2 does not include this.
- 2.2 For promoted post holders such a requirement may be specified in the remit of a promoted post.
- 2.3 Under the provisions of the 21<sup>st</sup> Century Agreement the remits of all promoted posts are devolved to LNCTs for agreement. The remit of some promoted posts will include specific responsibilities for health and safety, this may also include the undertaking of risk assessments.
- 2.4 The job sizing questionnaire (SNCT Handbook, Part 2, Appendix 2.2) states that all promoted posts have responsibility for health and safety. However, specific curricular responsibility and, in particular, responsibility for CDT, PE, Chemistry, Physics, Biology, HE and Art and Design, are also scored.
- 2.5 A Head teacher’s responsibility for health and safety will usually include implementation of the council’s policy on risk assessment. Such a policy should identify who is responsible for conducting risk assessments and the professional health and safety advice available to support the process.

### **Other Considerations**

- 3.1 The council must ensure that all risk assessors are provided with sufficient training to ensure they meet the legal requirement of being a “competent person”.

- 3.2 The council should ensure that sufficient time and resources are provided for the assessment to be carried out appropriately.
- 3.3 Where a promoted post holder undertakes risk assessment the council's risk assessment policy and procedure should be followed and this may require signing-off of the risk assessment documentation.
- 3.4 All teachers may be required to provide information and assistance in the risk assessment procedure and should be consulted during the process.
- 3.5 EIS Safety Representatives should be consulted on risk assessments and on all matters which may impact on the health and safety of EIS members. Consultation is a requirement under the Safety Representatives and Safety Committees Regulations 1977.
- 3.6 The risk assessment procedure itself should have been consulted on through the council's Safety Committee structures.
- 3.7 Where an unpromoted teacher is responsible for a school trip or excursion she/he may be required, by the council's policy, to take a lead in the risk assessment process. This is not a contractual requirement and the teacher could refuse the leadership and risk assessment role. Advice on risk assessments for visits outside of educational premises is also provided at Appendix A.

#### **Advice to Members**

- 4.1 An unpromoted teacher does not have a contractual duty to carry out risk assessments although all teachers may be required to assist in risk assessments and should be consulted during the process.
- 4.2 Promoted post holders may be required to carry out risk assessments if this is a part of the remit of their post and where health and safety responsibility is recognised in the job sizing of a post.
- 4.3 The responsibilities for risk assessment should be clearly set out in council and school policy.
- 4.4 If a member is being asked to take on risk assessment responsibilities and does not believe that this is part of her/his job remit or that she/he has not been allocated sufficient time or training for this task, she/he should contact her/his EIS Local Association Secretary for advice.

**RISK ASSESSMENT GUIDANCE**

**Background**

1.1 The AGM in June 2006 passed the following motion:

“That this AGM instruct Council to provide written guidance on risk assessments”

1.2 Information on the legal requirements for risk assessment and advice on the risk assessment process is provided in the EIS Health and Safety Handbook which is issued to all EIS Safety Representatives.

**What is Risk Assessment?**

2.1 The Health and Safety Executive (HSE) define risk assessment:

“A risk assessment is simply a careful examination of what, in your work, could cause harm to people, so that you can weigh up whether you have taken enough precautions or should do more to prevent harm.”

HSE Guidance: ‘Five steps to risk assessment’:  
[www.hse.gov.uk/risk/fivesteps.htm](http://www.hse.gov.uk/risk/fivesteps.htm)

2.2 Within schools and colleges there is a wide range of hazards (ie anything that may cause harm) which must be properly controlled to prevent accidents, injuries and ill health. Risk assessment can look at an area and identify all the hazards, eg technical workroom, or can look at a specific hazard throughout an establishment, eg stress or violence, or can be used in response to a particular incident or accident to ensure that steps are taken to prevent recurrence.

2.3 The risk is assessed by consideration of the likelihood that the potential harm will occur and the severity of the possible consequences. The success of a risk assessment is judged on whether or not the risks, following assessment and implementation of measures of prevention, are adequately controlled.

**Legal Requirements**

3.1 It is a legal requirement since 1993 for employers to undertake risk assessments. The current requirements for risk assessment are under the Management of Health and Safety at Work Regulations 1999. This duty is in addition to the duties on an employer under the Health and Safety at Work etc Act 1974. An employer has a duty to ensure the health, safety and welfare of his/her employees.

3.2 Where an employer has 5 or more employees the risk assessment must be recorded.

- 3.3 Where an employee's circumstances change the employer should reconsider the risk assessment, in particular where an employee becomes pregnant, develops a disability or returns to work from major surgery. Once an employer has been informed by the employee that she is pregnant a specific risk assessment must be carried out.
- 3.4 The Safety Representatives and Safety Committees Regulations 1977 require employers to consult with trade union safety representatives on matters concerning the health or safety of their members. This requirement includes consultation on the risk assessment process and the outcomes of risk assessment. Safety representatives are entitled to access to risk assessment documents.
- 3.5 The responsibilities for health and safety, including risk assessment, should be set out in the Health and Safety Policy.
- 3.6 The legal responsibility for ensuring that a suitable and sufficient risk assessment has been carried out always remains with the employer.
- 3.7 In schools headteachers are required to manage the health and safety of all within school premises.
- 3.8 Employees also have duties under the Health and Safety at Work Act and under the Management Regulations and are required to look after their own health and safety and that of others and to co-operate with the employer to assist the employer in meeting health and safety requirements.

### The Risk Assessment Process

- 4.1 There are 5 Steps to risk assessment as outlined in the HSE guidance (2.1 above).
- 4.2 Step 1 is to identify the hazards. This step should include careful consideration of the tasks and working environment. Some hazards, such as noise, asbestos, chemicals, manual handling, ionising radiation, are potentially so dangerous that they are covered by their own regulations and require detailed risk assessment and specified control measures. Such hazards and risk assessments do not need to be repeated in a general risk assessment but they should be reviewed and a general risk assessment should make reference to other assessments and documentation. Hazards can also be identified by reviewing accident/incident reports and occupational ill health records.
- 4.3 Step 2 is to decide who might be harmed and how this may happen. In schools and colleges the employer must consider employees, pupils/students, contractors and employees of other employers (for example, catering staff not directly employed) and visitors.
- 4.4 Step 3 is to evaluate the risks and to decide on the precautions required. This is about looking at what is already in place and attempting to reduce risks to an acceptable level. What is required to be done may be

prescribed in regulations, set out in an Approved Code of Practice or provided in HSE Guidance. Where detailed advice is not available the employer must ensure that he/she has done all that is 'reasonably practicable' to reduce the risks. The term 'reasonably practicable' is used frequently in health and safety legislation and means that there must be an evaluation of the level of risk and the resources required to take additional measures to reduce the risk further. It does not mean that an employer can make a decision not to take additional precautions or preventative steps based only on a wish not to spend any more money.

- 4.5 Step 4 requires the findings to be recorded (for employers with 5 or more employees) and, most importantly, implemented. Good practice is for implementation to be allocated to individuals/departments and realistic time scales set. Such timescales will be dependent on the level or risk, particularly if the risk is still high.
- 4.6 Step 5 is the review of the risk assessment. This will be necessitated by changes, eg to the working environment, in circumstances of employees (see 3.3 above), in equipment or in the tasks being carried out. It is also good practice to have a system of annual review of risk assessments.
- 4.7 Risk assessments should be carried out by a 'competent person', such a person should have been trained in the risk assessment process and have sufficient training and experience of the work and knowledge of health and safety requirements. Where training is required the employer must provide this and it should be conducted in work time.

#### Principles of Risk Assessment

- 5.1 It is HSE's view that the risk assessment process should be underpinned by its 'Principles of sensible risk management ([www.hse.gov.uk/risk/principles.htm](http://www.hse.gov.uk/risk/principles.htm)) which includes the message to employers that HSE is committed to:

"Ensuring that those who create risks manage them responsibly and understand that failure to manage real risks responsibly is likely to lead to robust action."

- 5.2 Another of the principles sets out that risk management is not about:

"Stopping important recreational and learning activities for individuals where the risks are managed."

The management of risks for educational visits and excursions is a priority area for HSE and it is important that teachers and lecturers are aware of the additional risks that such activities present and the actions they should take to protect pupils/students, colleagues and themselves. The EIS guidance which deals with this issue is provided at Appendix 1.

- 5.3 Assessment of risk is not a science and although risk rating systems (which allocate values to levels of likelihood and consequence and multiply these factors to result in a numerical score) may be used, the results are

still a subjective evaluation. However, risk assessment must be undertaken with adherence to legal requirements, compliance with good practice and a systematic application of common sense.

### Examples of Risk Assessments

- 6.1 There is no set format for risk assessment documentation. Councils, colleges and universities should have a system for risk assessment in place and this will generally use standardised documentation. Examples of general risk assessments are included in HSE's Guidance 'Five steps to risk assessment' (see 2.1 above).
- 6.2 An example of a risk assessment in a school setting can be found in HSE's guidance 'Health and safety matter for special educational needs: Legal issues including risk assessment'. HSE makes clear that the risk assessment examples are indicative only.
- 6.3 An example of a specific risk assessment relating to manual handling with special education is found in HSE's guidance 'Health and safety matters for special educational needs: Moving and handling'.
- 6.4 The examples of risk assessments in 6.2 and 6.3 above are available at: [www.hse.gov.uk/services/education/information.htm#special](http://www.hse.gov.uk/services/education/information.htm#special)

### Advice to Members

- 7.1 If you are concerned that the risks in your establishment are not being properly controlled you should raise this with your line manager/headteacher and/or seek advice from the EIS Safety Representative.
- 7.2 The EIS Safety Representative is entitled to ask for access to all risk assessments and this can be useful if there is doubt over the precautions that have been put in place.
- 7.3 Where there is a concern that risks are not being properly managed, eg in the case of a pupil/student with a history of violent behaviour or where there are high levels of stress, the employee/EIS Safety Representative should request that a risk assessment is carried out. Although most risk assessments look at work places or activities other work place hazards, such as the potential for violent incidents and stress, should also be assessed.
- 7.4 If an EIS Safety Representative/member believes that the risk assessment is not suitable or sufficient, due to the risks remaining high or there being other measures which could be taken to reduce risks to an acceptable level, this should be reported to the employer, via line management/headteacher. If there is not a satisfactory outcome further advice should be sought from the EIS Local Association or Branch.

## **Action**

- 8.1** Paragraphs 2.1 to 7.4 (inclusive) should be issued as advice to members in the Bulletin and posted on the EIS website.
- 8.2** If a Local Association Secretary/Branch Secretary requires advice on risk assessment, or any health and safety issue, she/he should contact the National Officer (Employment, Health and Safety).

## Appendix 1

### HEALTH AND SAFETY: ADVICE ON EXCURSIONS AND VISITS

Teachers and lecturers are not contractually required to organise or participate in excursions or visits outwith school/college premises. However, many teachers/lecturers willingly undertake such activities when there is educational value in doing so.

The requirements under health and safety law (the Health and Safety at Work Act 1974, The Management of Health and Safety at Work Regulations 1999 (as amended) and all other relevant statutory provisions) apply wherever and whenever a teacher/lecturer is at work. Councils/colleges are required to ensure the health and safety of their employees and pupils/students and teachers/lecturers are required to take reasonable care of their own health and safety and the health and safety of their pupils/students.

Teachers/lecturers who take on responsibility for supervising or organising visits should ensure that they:

- (1) Comply with the council/college procedures and policies; such policies should include rules for levels of supervision and risk assessments.
- (2) If in doubt seek advice from head teacher/line manager/employer's advisers.
- (3) Raise any health and safety concern prior to the visit taking place.

It is the employer's responsibility to ensure that suitable and sufficient risk assessments have been carried out by competent person(s) for all work activities including visits or excursions. In December 2004 the Scottish Executive published detailed and comprehensive guidance: 'Health and Safety of Educational Excursions: A Good Practice Guide' which is available at [www.scotland.gov.uk](http://www.scotland.gov.uk). This guidance provides standards for Local Authorities, Adventure Activities and a Handbook for Group Leaders. The Health and Safety Executive's website is also a useful source for advice and information; [www.hse.gov.uk/services/education](http://www.hse.gov.uk/services/education).

If an EIS member has concerns about a health and safety issue related to a visit he/she should try to resolve this with his/her head teacher/line manager. If the concerns are not addressed he/she should cease to volunteer for the trip or activity. In such circumstances it is recommended that advice and support is sought from the Local Association Secretary/Branch Secretary.



**Appendix B**

**PART 2**

**2. MAIN DUTIES**

- 2.1 The duties of staff covered by the SNCT are outlined in this section. This list is not intended to be prescriptive but should act as guidance for the development of specific duties and job remits. LNCTs are required to reach agreement on these.

**Teachers/Chartered Teachers**

- 2.2 Subject to the policies of the school and the council, the duties of teachers are to perform such tasks\* as the headteacher shall direct. These should give reasonable regard to overall teacher workload associated with:

- (a) teaching assigned classes together with associated preparation and correction;
- (b) developing the school curriculum;
- (c) assessing, recording and reporting on the work of pupils;
- (d) preparing pupils for examinations and assisting with their administration;
- (e) providing advice and guidance to pupils on issues related to their education;
- (f) promoting and safeguarding the health, welfare and safety of pupils;
- (g) working in partnership with parents, support staff and other professionals;
- (h) undertaking appropriate and agreed continuing professional development;
- (i) participating in issues related to school planning, raising achievement and individual review; and
- (j) contributing towards good order and the wider needs of the school.

*\* Such tasks should not routinely include those outlined in Appendix 2.6.*

**Principal Teachers**

- 2.3 Subject to the policies of the school and the council, the duties of principal teachers are to perform such tasks as the headteacher

shall direct. These should give reasonable regard to overall teacher workload related to:

- (a) responsibility for the leadership, good management and strategic direction of colleagues;
- (b) curriculum development and quality assurance;
- (c) contributing to the development of school policy in relation to the behaviour management of pupils;
- (d) the management and guidance of colleagues;
- (e) reviewing the CPD needs, career development and performance of colleagues;
- (f) the provision of advice, support and guidance to colleagues;
- (g) responsibility for the leadership, good management and strategic direction of pastoral care within the school;
- (h) assisting in the management, deployment and development of pastoral care staff;
- (i) implementation of whole school policies dealing with guidance issues, pastoral care, assessment and pupil welfare; and
- (j) working in partnership with colleagues, parents, other specialist agencies and staff in other schools as appropriate.

#### **Depute Headteachers**

- 2.4 The role of a depute headteacher is to assist and, where necessary, to deputise for the headteacher in the conduct of the schools affairs.

#### **Headteachers**

- 2.5 The role of the headteacher is, within the resources available, to conduct the affairs of the school to the benefit of the pupils and the community it serves, through pursuing objectives and implementing policies set by the council under the overall direction of the Director of Education. The headteacher shall be accountable to the council for the following list of duties, and for such other duties as can reasonably be attached to the post:

- (a) responsibility for the leadership, good management and strategic direction of the school;

- (b) responsibility for school policy regarding behaviour management of pupils;
- (c) the management of all staff, and the provision of professional advice and guidance to colleagues;
- (d) the management and development of the school curriculum;
- (e) to act as adviser to the Parent Council and to participate in the selection and appointment of the staff of the school;
- (f) to promote the continuing professional development of all staff and to ensure that all staff have an annual review of their development needs;
- (g) working in partnership with parents, other professionals, agencies and schools; and
- (h) to manage the health and safety of all within the school premises.

#### **Depute Headteachers and Headteachers**

- 2.6 Where a class teaching commitment is included in the remit of a headteacher or depute headteacher, its extent will be determined by the council on the basis of an assessment of the management content of the post.