

IN WHAT CIRCUMSTANCES CAN A TEACHING ASSISTANT PROVIDE COVER?

The Union believes that every effort should be made by schools to employ supply teachers. Despite the clear arguments for cover to be provided by a qualified teacher, some head teachers will wish to deploy teaching assistants in such roles.

There are statutory limitations on the ways in which teaching assistants can be deployed to provide cover.

1. Cover Supervision

Cover supervision can be lawfully carried out by a teaching assistant. Cover supervision takes place when no active teaching takes place and pupils carry out, under supervision, work which has been prepared in advance.

The STPCD advises that 'cover supervision is particularly valid where work has been set, or where pupils are able to undertake effective self-directed learning'. (Paragraph 72 of Section 4 of the 2008 STPCD). NUT policy, agreed at Annual Conference 2009 sets out that cover supervisors should not be used for more than the first 3 days of absence in secondary schools and for more than the first day of absence in primary schools.

The WAMG Guidance Note on Cover Supervision includes advice which may assist with arguments for only limited deployment of cover supervisors:
www.tda.gov.uk/upload/resources/pdf/w/wamg_guidance_cover.pdf.

1. 'Cover supervision occurs when there is no active teaching taking place. Pupils would continue their learning by carrying out a pre-prepared exercise under supervision.' (paragraph 2) 'The arrangements for providing appropriate work for pupils who are being supervised should not place excessive additional burdens of planning, preparation and assessment on teachers.' (paragraph 7)
2. 'Cover supervision should only be used for short term absences' (paragraph 8). 'Head teachers will use their professional judgement in determining what should be regarded as a 'short-term' absence. There will be a number of considerations which the head teacher will need to take into account when deciding whether cover supervision is appropriate or not:
 - the extent to which the continuity of learning can be maintained;
 - the length of time a particular group of pupils would be working without a teacher;
 - the proportion of the total curriculum time affected in a specific subject over the course of a term.' (paragraph 9)

The NUT believes that a definition of short-term absence should be included in a school's cover strategy.

3. 'In a setting where a class is predominantly led by one teacher for the majority of the day, it is likely that cover supervision would very quickly become 'specified work' and active teaching would be required. This would, therefore, fall under the Education (Specified Work and Registration) (England) Regulations' (paragraph 10).

The NUT recognises that this is more likely to be the case in primary settings and, therefore, cover supervisors are predominantly secondary based.

4. The WAMG guidance note on cover supervision does suggest that cover supervisors should only be used for up to three days.

2. "Specified Work"

There are restrictions on the circumstances in which a teaching assistant can be deployed to do what is known as "specified work". A teaching assistant who has undertaken HLTA training can be directed to undertake specified work within the restrictions set out below. If not, they can only undertake cover supervision.

Specified work is defined in the Education (Specified Work and Registration) (England) Regulations 2003 as:

- (a) planning and preparing lessons and courses for pupils;
- (b) delivering lessons to pupils. This includes delivery via distance learning or computer aided techniques;
- (c) assessing the development, progress and attainment of pupils; and
- (d) reporting on the development, progress and attainment of pupils.

The Regulations set out that in addition to these duties being carried out by an HLTA-trained teaching assistant who the head teacher is satisfied has the skills, expertise and experience, an HLTA-trained teaching assistant must only undertake 'specified' work:

- to support and assist a qualified teacher;
- under the supervision of a qualified teacher.

Whilst the Union argues that pupils should have the benefit of the availability of a qualified teacher, if the above conditions are met, a head teacher is allowed by law to deploy an HLTA to carry out such work. The Union advises that where regrettably head teachers do deploy HLTAs in this way, they should provide cover only on a very short-term basis.

The Union believes that those who are qualified to undertake HLTA work should be employed on such a basis for all of their work at a school and not given separate contracts for different roles. WAMG Guidance Note 22 supports this view.

Inappropriate and Unlawful Deployment of Teaching Assistants

Where NUT representatives are aware that teaching assistants are being requested to go beyond the proper limits of their role, they should inform their local representative or Regional Office, in order to discuss ways in which this can be challenged and remedied.

Support staff unions have concerns that their members are being asked to carry out work beyond their role and without proper pay and conditions, and support staff in schools may be advised to seek advice from their own union.

Where teaching assistants are being deployed in a way which is outside the statutory provisions, this should be challenged. Employers who allow such deployment may be in breach of statutory duty. The Union will pursue appropriate collective and legal remedies for such breaches.