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Administration of medication to pupils

1 Current arrangements

Principals, Vice Principals and teachers are not contractually required to administer medicines to pupils; it is a voluntary role and there is no legal obligation to do so. However, some non-teaching staff are employed on contracts which require them to carry out certain medical procedures.¹

Departmental guidance states that dealing with medical conditions and medication needs must take into account the risks arising from these and should aim to minimise the probability of anything more serious happening to the child.²

¹ DE and DHSSPS (2008) *Supporting Pupils with Medication Needs* Bangor: DE

² DE and DHSSPS (2008) *Supporting Pupils with Medication Needs* Bangor: DE

Roles and responsibilities

Joint guidance published by the Department of Education (DE) and the Department of Health, Social Services and Public Safety (DHSSPS) in 2008 sets out the key roles and responsibilities pertaining to the medication needs of school pupils. Some of the key responsibilities are highlighted in the following table.³

Table 1: Examples of roles and responsibilities for pupils' medication needs

Group	Examples of responsibilities
Parents	<ul style="list-style-type: none"> • Making the school aware that their child requires medication • Reaching agreement with the Principal on the school's role in helping with their child's medication • Providing written instructions and making a written agreement
The employer	<ul style="list-style-type: none"> • Ensuring the school has a policy for supporting pupils with medication needs and managing medication • Ensuring that legal responsibilities are made clear to all staff • Making sure that correct procedures are in place and that staff who volunteer or are recruited for the purpose receive appropriate training
Principals	<ul style="list-style-type: none"> • Operation of the policy on the administration of medication and therefore the main person responsible for the administration of medication in school • 'Dealing sympathetically' with each request from parents that medication be administered to their child
Teachers and other staff who volunteer to administer or supervise medication	<ul style="list-style-type: none"> • Understanding the nature of a pupil's medical condition and being aware of when and where a pupil may need extra attention • Being aware of the likelihood of an emergency arising and the action to take if one occurs; • Taking part in appropriate training and being aware of possible side effects

With regard to schools developing a policy for ensuring that children with medication needs receive appropriate care and support at school, departmental guidance states that:⁴

"As far as possible, policies should provide guidance that should enable regular attendance for children with medication needs. Formal systems and procedures for

³ DE and DHSSPS (2008) *Supporting Pupils with Medication Needs* Bangor: DE

⁴ DE and DHSSPS (2008) *Supporting Pupils with Medication Needs* Bangor: DE

carrying out the policy, drawn up in partnership with parents, education and health staff, should support the policy.”

Healthcare professionals

The school doctor or community paediatrician is responsible for assessing and reporting on children with special needs or medical problems with the aim of minimising the effect these have on the child’s education. Although there is not usually a specific school doctor for each mainstream school, schools can contact their local community paediatric department for advice.⁵

The school (community) nurse is the key healthcare professional with responsibility for the health of school age children. The school nurse is employed by the local Health and Social Care Trust and is often based in a clinic or health centre. Each provides a service to a number of schools, and in terms of pupils’ medication needs, their focus is on helping to prepare medication plans, rather than becoming involved with the actual administration of medication to pupils on a regular basis.

The school nurse oversees the health of children at the school and often oversees the compilation of individual Medication Plans in conjunction with the school, the parents and, in some cases, specialist nurses such as Diabetic Nurse Specialists and Epilepsy Nurse Specialists, who provide additional nursing expertise. The school nurse remains the primary contact point for the school.⁶

They have a different role to a school matron or nurse employed directly by some schools: some school matrons are not qualified nurses, and their role is often focused on first aid. If a school directly employs a registered nurse, they may become involved in the administration of regular medication to children; however, this varies in practice and is more likely to happen in post-primary schools. Special schools attended by pupils who have severe learning disabilities tend to have a registered nurse who can administer medication to pupils.⁷

Educational trips

Departmental guidance states that ‘reasonable steps’ should be taken by schools to encourage pupils with medication needs to participate in school trips and that this may involve reviewing the visits policy and procedures. However, the guidance notes that it may not always be possible to include a pupil on a school trip if appropriate supervision cannot be guaranteed.⁸

⁵ DE and DHSSPS (2008) *Supporting Pupils with Medication Needs* Bangor: DE

⁶ DE and DHSSPS (2008) *Supporting Pupils with Medication Needs* Bangor: DE

⁷ Information from a Health and Social Care Trust representative, July 2011

⁸ DE and DHSSPS (2008) *Supporting Pupils with Medication Needs* Bangor: DE

Indemnity arrangements

If a member of staff administers medication to a pupils and faces expenses, liability, loss claim or proceedings as a result, the employer indemnifies the staff member provided that:⁹

- The member of staff is a direct employee;
- The medication is administered by the member of staff in the course of, or ancillary to, their employment;
- The member of staff follows the procedures set out in Department of Education guidance, the school's policy and the procedures outlined in the pupil's Medication Plan (or written permissions from parents and directions received through training in the appropriate procedures); and
- The expenses, liability, loss claim or proceedings are not caused by and do not arise from fraud, dishonesty or a criminal offence.

2 Legislation

The Special Educational Needs and Disability (Northern Ireland) Order 2005¹⁰ does not require or prohibit the administration of medicines to pupils. Clauses of this legislation that may be of interest in this regard include the following, stating that disabled pupils should not be discriminated against in the education or associated services provided.

⁹ DE and DHSSPS (2008) *Supporting Pupils with Medication Needs* Bangor: DE

¹⁰ *The Special Educational Needs and Disability (Northern Ireland) Order 2005* [online] Available at: <http://www.legislation.gov.uk/nisi/2005/1117/contents>

Discrimination against disabled pupils and prospective pupils

14.—(1) It is unlawful for the body responsible for a school to discriminate against a disabled person—

- (a) in the arrangements it makes for determining admission to the school as a pupil;
- (b) in the terms on which it offers to admit him to the school as a pupil; or
- (c) by refusing or deliberately omitting to accept an application for his admission to the school as a pupil.

(2) It is unlawful for the body responsible for a school to discriminate against a disabled pupil in the education or associated services provided for, or offered to, pupils at the school by that body.

(3) It is unlawful for the body responsible for a school to discriminate against a disabled pupil by suspending or expelling him from the school.

(4) In the case of an act which constitutes discrimination by virtue of Article 43, this Article also applies to discrimination against a person who is not disabled.

(5) For the purposes of this Chapter the body responsible for a school is

- (a) in the case of a grant-aided school, the board for the area in which the school is situated or the Board of Governors, according to which has the function in question;
 - (b) in relation to an independent school, the proprietor;
- and in this Chapter that body is referred to as the “responsible body”.

Meaning of “discrimination”

15.—(1) For the purposes of Article 14, a responsible body discriminates against a disabled person if—

- (a) for a reason which relates to his disability, it treats him less favourably than it treats or would treat others to whom that reason does not or would not apply; and
- (b) it cannot show that the treatment in question is justified.

(2) For the purposes of Article 14, a responsible body also discriminates against a disabled person if—

- (a) it fails, to his detriment, to comply with Article 16; and
- (b) it cannot show that its failure to comply is justified

The following clauses outline the duties of responsible bodies in the schools sector. In particular, this highlights that disabled pupils are not to be placed at a substantial disadvantage, but that this does not require the responsible body to provide auxiliary aids or services.

Disabled pupils not to be substantially disadvantaged

16.—(1) The responsible body for a school shall take such steps as it is reasonable for it to have to take to ensure that—

- (a) in relation to the arrangements it makes for determining the admission of pupils to the school, disabled persons are not placed at a substantial disadvantage in comparison with persons who are not disabled; and
- (b) in relation to education and associated services provided for, or offered to, pupils at the school by it, disabled pupils are not placed at a substantial disadvantage in comparison with pupils who are not disabled.

(2) That does not require the responsible body to—

- (a) remove or alter a physical feature (for example, one arising from the design or construction of the school premises or the location of resources); or
- (b) provide auxiliary aids or services.

(3) Regulations may make provision, for the purposes of this Article—

- (a) as to circumstances in which it is reasonable for a responsible body to have to take steps of a prescribed description;
- (b) as to steps which it is always reasonable for a responsible body to have to take;
- (c) as to circumstances in which it is not reasonable for a responsible body to have to take steps of a prescribed description;
- (d) as to steps which it is never reasonable for a responsible body to have to take.

(4) In considering whether it is reasonable for it to have to take a particular step in order to comply with its duty under paragraph (1), a responsible body shall have regard to any relevant provisions of a code of practice issued under section 54A of the 1995 Act.

(8) This Article imposes duties only for the purpose of determining whether a responsible body has discriminated against a disabled person; and accordingly a breach of any such duty is not actionable as such.

The legislation also sets out duties around accessibility strategies and plans, as outlined in the following boxes. For example, it notes that each Education and Library Board and each Board of Governors must prepare an accessibility strategy, in part to increase the extent to which disabled pupils can participate in schools' curriculums.

Accessibility strategies of boards

- 17.—(1) Each board shall prepare, in relation to controlled schools under its management—
- (a) an accessibility strategy;
 - (b) further such strategies at such times as may be prescribed.
- (2) An accessibility strategy is a strategy for, over a prescribed period—
- (a) increasing the extent to which disabled pupils can participate in the schools' curriculums;
 - (b) improving the physical environment of the schools for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and associated services provided or offered by the schools; and
 - (c) improving the delivery to disabled pupils—
 - (i) within a reasonable time, and
 - (ii) in ways which are determined after taking account of their disabilities and any preferences expressed by them or their parents, of information which is provided in writing for pupils who are not disabled.
- (3) In preparing its accessibility strategy, a board shall have regard to—
- (a) the need to allocate adequate resources for implementing the strategy; and
 - (b) any guidance issued by the Department as to—
 - (i) the content of an accessibility strategy;
 - (ii) the form in which it is to be produced; and
 - (iii) the persons to be consulted in its preparation.
- (4) An accessibility strategy shall be in writing.
- (5) Each board shall—
- (a) keep its accessibility strategy under review during the period to which it relates and, if necessary, revise it; and
 - (b) have regard to any guidance issued by the Department as to compliance with the requirements of sub-paragraph (a).
- (6) It is the duty of each board to implement its accessibility strategy.
- (7) A board shall—
- (a) if asked to do so by the Department, give to the Department a copy of its accessibility strategy;
 - (b) if asked to do so by any other person, make a copy of its accessibility strategy available for inspection at such reasonable times as it may determine.
- (8) In this Article “disabled pupil”, in relation to a school, includes a disabled person who may be admitted to the school as a pupil.

Accessibility plans for schools

18.—(1) The Board of Governors of a grant-aided school and the proprietor of an independent school shall prepare—

- (a) an accessibility plan for the school;
- (b) further such plans at such times as may be prescribed.

(2) An accessibility plan for a school is a plan for, over a prescribed period—

- (a) increasing the extent to which disabled pupils can participate in the school's curriculum;
- (b) improving the physical environment of the school for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and associated services provided or offered by the school; and
- (c) improving the delivery to disabled pupils—
 - (i) within a reasonable time, and
 - (ii) in ways which are determined after taking account of their disabilities and any preferences expressed by them or their parents, of information which is provided in writing for pupils who are not disabled.

(3) In preparing an accessibility plan, the Board of Governors or proprietor shall have regard to the need to allocate adequate resources for implementing the plan.

(4) An accessibility plan shall be in writing.

(5) During the period to which the plan relates, the Board of Governors or proprietor shall keep the accessibility plan under review and, if necessary, revise it.

(6) It is the duty of the Board of Governors or proprietor to implement the accessibility plan.

(7) An inspection of a school under Article 102 of the 1986 Order may extend to the performance by the Board of Governors or proprietor of functions in relation to the preparation, publication, review, revision and implementation of an accessibility plan for the school.

(8) The annual report for a grant-aided school prepared under Article 125 of the Education Reform (Northern Ireland) Order 1989 (NI 20) shall include information as to—

- (a) the arrangements for the admission of disabled persons as pupils at the school,
- (b) the steps taken to prevent disabled pupils from being treated less favourably than other pupils,
- (c) the facilities provided to assist access to the school by disabled pupils, and
- (d) the accessibility plan for the school.

(9) The proprietor of an independent school shall—

- (a) if asked to do so by the Department, give a copy of his accessibility plan to the Department;
- (b) if asked to do so by any other person, make a copy of his accessibility plan available for inspection at such reasonable times as he may determine.

(10) In this Article “disabled pupil” includes a disabled person who may be admitted to the school as a pupil

Enforcement

With regard to enforcement, the Special Educational Needs and Disability Tribunal for Northern Ireland may hear claims of discrimination, and has powers make such orders as it considers reasonable in the circumstances of the case. This may, in particular, be exercised with a view to obviating or reducing the adverse effect on the person concerned of any matter to which the claim relates; but does not include power to order the payment of any sum by way of compensation.¹¹

3 Views of teaching unions

Some teaching unions, for example the National Association of Schoolmasters/ Union of Women Teachers (NASUWT), the Ulster Teachers' Union (UTU) and the Irish National Teachers' Organisation (INTO) advise their members not to become involved in the administration of medicines to children, highlighting that there is no legal or contractual obligation for them to do so.¹²

Guidance from INTO states that any teacher who takes on the responsibility of administering medication 'takes on a heavy legal duty of care to discharge the responsibility correctly.'¹³ The Association of Teachers and Lecturers (ATL) states that the decisions of individuals around whether to become involved must be respected.¹⁴

It is often reported that the fear of litigation or child abuse accusations deters many teachers from volunteering to administer medicines to children in school.¹⁵ In addition, some cases of teachers incorrectly administering medication to pupils have been highlighted in the press. For example, a teacher in England was recently reprimanded by the General Teaching Council for mistakenly giving the wrong medication to a pupil.¹⁶

Conclusion

Departmental guidance and legislation states that schools should make reasonable efforts to ensure that children and young people with disabilities are not substantially disadvantaged in their education. However, there is no legal duty for principals or teachers to administer medication to pupils in school, and many teaching unions advise against this. In terms of giving further consideration to this issue, the Education Committee could request legal advice on the implications of the Special Educational Needs and Disability (Northern Ireland) Order 2005 with regard to administering medication to pupils in schools.

¹¹ *The Special Educational Needs and Disability (Northern Ireland) Order 2005* [online] Available at: <http://www.legislation.gov.uk/nisi/2005/1117/contents>

¹² NASUWT *The Administration of Medications to pupils* NASUWT and UTU (2006) *UTU Policy, April 2006*

¹³ INTO *Administration of Medicine* [online] Available at: <http://www.into.ie/NI/Schools/ChildProtection/AdministrationofMedicine/>

¹⁴ ATL *Advice Administering medication* [online] Available at: <http://www.atl.org.uk/Images/ADV23%20Administering%20medication.pdf>

¹⁵ Times Educational Supplement (2001) *Why Teachers Don't Like Playing Doctors*

¹⁶ Daily Post (Liverpool) January 14, 2011 *Teacher gave pupil the wrong medicine*