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PERSONNEL

MANAGEMENT INFORMATION

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FOR SCHOOL USE:

SUMMARY:

This letter summarises the provisions of the Working Time Regulations and their implications for schools.

ACTION REQUIRED..

To note the information.

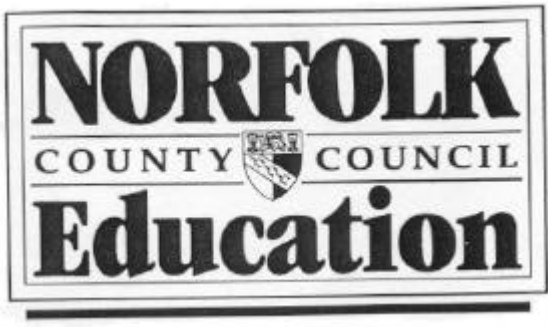
ASSOCIATED DOCUMENTS..

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My Ref. BCSIEPSISSITP
Date: 26th February 1999

Please ask for: School's Personnel Consultant

Direct Dialling as per MI sheet
Number:

TO: HEADTEACHERS OF ALL
LOCALLY MANAGED SCHOOLS

Dear Headteacher

EC WORKING TIME DIRECTIVE

The Working Time Regulations (Statutory Instrument 1998(1833)) came into effect on 1st October 1998 and incorporated the European Working Time Directive into UK law. The Regulations establish a statutory framework for regulating aspects of the organisation of working time for the first time in UK law. As they are deemed to be a health and safety measure, the underlying considerations are interdependent with existing risk assessment principles.

The main provisions of the Regulations are:

- (i) a duty on employers to make all reasonable efforts to secure a maximum working week of 48 hours, at the disposal of the employer to be averaged over a reference period of 17 weeks;
- (ii) entitlement of adult workers to paid leave of 3 weeks (rising to 4 weeks from 23rd November 1999);
- (iii) entitlement of workers to rest periods of.
 - * at least 20 minutes (30 minutes for workers aged under 18) where the working day is longer than 6 hours
 - at least 11 consecutive hours per 24 hour period (12 hours for workers aged under 18)
 - * at least 24 consecutive hours per 7 day period (48 hours for workers aged under 18), averaged over a 14 day period
- (iv) requirements for record keeping, and health and safety assessment for certain workers.

continued.....

If it transpires that a person is in fact working in breach of the Regulations, it will be necessary for that worker's hours to be rearranged while ensuring that this is done without breaching their contract of employment.

If employers fail to adjust working patterns in line with the Regulations, they may be committing a criminal offence for which a fine could be levied. The employee also has a right of redress through an Employment Tribunal where, to defend a claim successfully, the employer would have to show that they had taken all reasonable steps to comply with the Regulations.

The Employment Rights Act 1996 has been amended so that it is automatically unfair to dismiss an employee for asserting her/his right to work in accordance with the Regulations.

The DfEE's evidence to the Teachers Pay Review Body concluded that these new regulations had no significant implications for teachers pay and conditions. Similarly, national and local conditions of service for non-teaching staff should already be consistent with the regulations.

However, they do reinforce guidance previously issued advising schools against adopting the practice of paying teachers for term-time only rather than up to the end of the notional term as set out in the National Conditions of Service (Burgundy Book) ie 31st August, 31st December, 30th April. **This practice runs a serious risk of being challenged under the regulations in (ii) above and is in any event in breach of Burgundy Book requirements.**

Term time only contracts for non-teaching staff already make provision for the required amount of paid annual leave.

There is, however, a potential problem in the case of supply teachers whose pay arrangements do not currently give them entitlement to a period of paid leave. Under the regulations, the entitlement to paid leave is triggered after 13 weeks of continuous employment so that supply teachers with a regular 'one act of employment a week' would qualify. The Teachers Pay Review Body is looking at a fairer pay formula which would give all supply teachers the same entitlement. We will give further advice as soon as this is received.

If you foresee any potential difficulties with compliance to the Act, please contact your Personnel Consultant for further advice.

Yours sincerely

Bryan Slater
Director of Education