

# Time for Standards:

Guidance accompanying the  
Section 133 Regulations issued  
under the Education Act 2002





## Regulations and Guidance under S133 of the Education Act 2002

The Regulations made under S133 of the Education Act 2002, and their accompanying guidance, are fully endorsed by the signatories to the National Agreement on raising standards and tackling workload<sup>1</sup>. A copy of the Regulations can be found at <http://www.legislation.hmso.gov.uk/si/si2003/20031663.htm>

The signatories agree that these Regulations will make an important contribution to changing the way in which schools work, raising standards for pupils by increasing the range of adults with different skills and experiences in schools. They will ensure that schools safeguard the quality of pupils' education when they are working with adults who are not qualified teachers – an area which, in the past, has not been regulated and was therefore open to wide interpretation.

The aim of the accompanying guidance is to elaborate on the principles established in the Regulations in order to assist schools as they apply them. For example, the guidance provides advice on key issues such as setting up a system of supervision for staff undertaking 'specified work'.

<sup>1</sup> These Regulations apply in England only. Separate Regulations and accompanying guidance for Wales will be made by the National Assembly for Wales.

It is likely that the majority of support staff who are undertaking more challenging aspects of the 'specified work' with pupils will be higher-level teaching assistants (HLTAs). The Teacher Training Agency (TTA) has developed a set of standards for HLTAs and a training programme to help individuals meet those standards will follow – to be piloted from Autumn 2003 with full roll-out of the training from Easter 2004. Further information will be available to schools and potential HLTAs later in 2003.

The Regulations come into force on 1st August 2003. Schools will need to consider, in advance of the start of the Autumn Term 2003, which of their staff can undertake the 'specified work' based on their skills, expertise and experience – using the HLTA standards as an indicator of the required levels. They will also need to consider the level of supervision needed by each member of staff undertaking the 'specified work', using the information set out in the guidance document.

The signatories are committed to keeping the implementation of all aspects of the National Agreement under review. In relation to the attached guidance and the regulations under Section 133, the Workforce Agreement Monitoring Group will formulate any proposals for review by early 2006.

With particular reference to paragraph 10 of schedule 2 to the Regulations and for the purpose of this guidance, the term "qualified teacher(s)" should be taken to include "nominated teacher(s)".

**Title:** The Education (Specified Work and Registration) (England) Regulations 2003

**Function:** Guidance

**Subject Category:** Organisation and Management (Staff Management)

**Audience:** Headteachers, Chairs of Governors, Local Education Authorities

**Status:** Strongly Recommended

**Date of issue:** 08/2003

**Executive Summary:** This guidance explains the Education (Specified Work and Registration) (England) Regulations 2003 (referred to in this document as ‘the Regulations’).

Part I deals with the context and content of the Regulations. Part II explores the system of supervision that is required to be established for support staff who undertake the ‘specified work’ in schools.

The key points covered in this guidance are:

- who can undertake the ‘specified work’ set out in Regulation 6 of the Regulations;
- how the Regulations seek to preserve the status of qualified teachers and their lead role in promoting high standards of achievement; and
- the recommended format of a system of supervision.



# PART I – The Regulations

## PURPOSE OF THE REGULATIONS

1. The underlying policy aim of the Regulations made under section 133 of the Education Act 2002 is to safeguard standards in the classroom and preserve the role, status and overall responsibility of qualified teachers in schools.
2. The Regulations clarify the respective roles of qualified teachers and other staff in schools, and specify circumstances under which certain kinds of staff without qualified teacher status (QTS) – usually support staff – may carry out ‘specified work’ related to teaching and learning, including requirements for appropriate supervision of support staff by a qualified teacher (see paragraph 17). Such requirements are not intended to be bureaucratic and should build on appropriate existing arrangements.
3. Support staff who do not undertake ‘specified work’ are not covered by these Regulations or by the requirement for a system of supervision by a qualified teacher.
4. There are now many more support staff employed in schools, working alongside qualified teachers in a wide range of roles. For some time, there has been uncertainty about what duties and activities these support staff may or may not undertake. The Regulations and this guidance reflect the developments in the role of support staff highlighted in the National Agreement signed on 15 January 2003 between the Government, local government employers and school workforce unions (referred to in this document as ‘the National Agreement’). Both the Regulations and guidance carry the support of the English signatories to the National Agreement, who were closely involved in their development.

5. A key focus of the National Agreement was on the use of higher-level teaching assistants (HLTAs) to undertake an enhanced role in the classroom. These Regulations cover this group of support staff but also apply to other adults who are undertaking 'specified work' at different levels.
6. The National Agreement states that teachers and support staff are not interchangeable and that each class or group for timetabled core and other foundation subjects and for religious education must be assigned a qualified teacher to teach them. The fact that HLTAs may be working with whole classes for some of the time does not make them substitutes for a qualified teacher<sup>2</sup>.
7. Regulation 7 replaces the existing requirement for qualified teachers to register with the General Teaching Council for England. It does not introduce any new requirement but arises because of the repeal of section 218 of the Education Reform Act 1988 and the introduction of the new description of 'specified work'. The term "full registration" distinguishes the registration of qualified teachers from the proposed "provisional registration" of trainee teachers and others. The introduction of provisional registration will require a further set of Regulations.
8. Paragraph 4 of Schedule 2 of the Regulations concerns the appointment of instructors – persons with special qualifications or experience or both. Instructors may carry out the 'specified work' in a school provided that the LEA or Governing Body for the school to which he/she is appointed is satisfied that he/she has the relevant qualifications or experience or both. This means that the body which normally appoints staff in the relevant school, either the LEA or Governing Body, makes the necessary judgement as to the instructor's qualifications and experience. An instructor may only be appointed to teach if there is no qualified teacher, or trainee on the Graduate, Registered or Overseas-Trained Teacher Programmes available for that appointment.

<sup>2</sup> The School Teachers' Pay and Conditions Document 2003 will place duties on headteachers to ensure, save in exceptional circumstances, that a teacher is allocated to every class or group of pupils.

9. As well as clarifying the respective roles of qualified teachers and support staff, the Regulations also refer to a number of other categories of staff who work in schools. This guidance relates primarily to the group of staff undertaking the 'specified work' in Regulation 6 who are referred to in paragraph 10 of Schedule 2 of the Regulations. Other groups of staff who are not qualified teachers may also undertake the 'specified work' in regulation 6 under conditions set out elsewhere in the Regulations (see paragraph 17 below).
10. Learning Mentors and Connexions personal advisers are already doing some pastoral activities in their role of complementing and strengthening the work of teachers/schools. Connexions personal advisers and some learning mentors are not employed by schools and therefore have separate arrangements for agreeing duties, training and management including those set up as part of the partnership agreement between a school and a Connexions Partnership.
11. Nothing in this guidance overrides current employment law or regulations. These Regulations apply in England only. Separate Regulations and accompanying guidance for Wales will be made by the National Assembly for Wales.
12. The Regulations and guidance will be kept under review by the Workforce Agreement Monitoring Group. The first such review will take place by early 2006.

#### **DEFINITION OF 'SPECIFIED WORK'**

13. The Regulations specify the following activities:
  - 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.
14. In this list, 'pupils' includes work with individual pupils as well as groups and whole classes.

15. This list does not attempt to include all of the duties that may be required of classroom teachers (which are listed in Part XII of the School Teachers' Pay and Conditions Document). Instead, it contains the 'specified work' involved in the planning, preparation and delivery of lessons and the assessment of pupil progress. Omissions from the 'specified work' include:
- a. the 24 tasks set out in the National Agreement, including photocopying, record keeping and other administrative and clerical work, that have traditionally been carried out by teachers but that teachers should not routinely be required to undertake from September 2003;
  - b. tasks that often fall to headteachers (for example financial and premises management, procurement and sponsorship). These should also be transferred, where practicable, to senior administrative staff, business managers or site managers;
  - c. supervisory and pastoral activities that require behaviour management experience and, in some cases, counselling skills but that are not directly related to classroom teaching. These range from playground supervision and exam invigilation to elements of pastoral care. Schools will clearly need to ensure that any support staff who carry them out are suitably trained and monitored.
16. Also omitted are a number of duties that *only* qualified teachers will be expected to carry out in schools – for example, appraising the work of other teachers.

#### PERSONS ABLE TO CARRY OUT THE 'SPECIFIED WORK'

17. There are, broadly, three groups of people that may carry out the 'specified work' set out in the Regulations (see paragraph 13 above). They are:
- a. Qualified teachers (provided they are registered with the General Teaching Council);
  - b. Teachers without QTS (for example trainee teachers, instructors and overseas trained teachers). These people are not subject to the system of supervision outlined in Part II of this guidance but are subject to different arrangements. Some categories of student teachers are subject to the supervision requirements which pertain to support staff (see paragraph 3 of Schedule 2 to the Regulations);

- c. Support staff, who may undertake the 'specified work' subject to a number of conditions. These conditions, as set out in paragraph 10 of Schedule 2 of the Regulations, are as follows:
- i. the support staff member must carry out the 'specified work' in order to assist or support the work of a qualified teacher in the school;
  - ii. the support staff member must be subject to the direction and supervision of a qualified teacher in accordance with arrangements made by the headteacher of the school; and
  - iii. the headteacher must be satisfied that the support staff member has the skills, expertise and experience required to carry out the 'specified work'.

In relation to 17 cii above schools may find, in practice, that people mentioned in paragraphs 4-9 of Schedule 2 of the Regulations, referred to as nominated teachers, (who will benefit from the contractual changes set out in the National Agreement) may need to be involved in the supervision and direction of support staff. This will be a matter for the headteacher, taking account of all the circumstances involved, including the conditions placed on employing instructors.

Further details of these conditions are set out later in this guidance document.

18. The category of "support staff", for the purposes of this guidance, ranges from teaching assistants, nursery nurses, librarians and other staff in schools such as technical support staff to, for example, business persons or members of the emergency services, who may from time to time engage with pupils e.g. the community police officer. It may be that these individuals undertake the 'specified work' for only a fraction of their time in school but, in doing so, they must meet the conditions set out in the Regulations (as repeated above). Where appropriate, this may be achieved through building on existing supervision arrangements within the school.

19. The practical effect of the Regulations is not to prevent support staff from undertaking the 'specified work', but to ensure that they do so within a proper system of direction and supervision by a qualified teacher. The headteacher will determine how the system of supervision is provided and by whom.
20. Under the Regulations, a key responsibility of the headteacher will be to ensure that the support staff member has the skills, experience and expertise required to carry out the 'specified work'. 'Specified work' may cover a range of activities at different levels – including, for some support staff, work with whole classes. Where more demanding aspects of the 'specified work' are carried out by support staff, and particularly where they are working with whole classes, it is strongly recommended that the headteacher should have regard to the standards for HLTAs in determining whether those staff have the necessary level of skills and expertise. Details of the HLTA standards and training are available from the Teacher Training Agency ([www.tta.gov.uk](http://www.tta.gov.uk)).

#### **PROTECTING THE ROLE AND STATUS OF QUALIFIED TEACHERS**

21. Teachers are highly-skilled professionals whose expertise and judgement is essential to effective teaching. They make the leading contribution to teaching and learning, reflecting their training and expertise. Accountability for the overall learning outcomes of a particular pupil will rest with that pupil's qualified classroom/subject teacher and, to that end, the National Agreement states that each class or group for timetabled core and other foundation subjects and for religious education must be assigned a qualified teacher to teach them (subject to the unqualified teacher provisions in the Regulations).
22. Teachers and support staff such as HLTAs are not interchangeable. The fact that HLTAs may be working with whole classes for some of the time does not make them substitutes for when pupils need a qualified teacher, bringing the extra range, experience and complexity of understanding reflected in their greater professional training. The use of HLTAs to undertake 'specified work' is not intended to worsen pupil-teacher ratios but should improve pupil-adult ratios.

23. However, it is neither practical nor desirable for qualified teachers to carry out all of the activities that are required to fulfil their overall responsibility of promoting high standards of achievement. There is a distinction between the role of the teacher and the kind of activities that appropriately trained and supervised support staff, such as HLTAs, could undertake. For example, “assessing the development, progress and attainment of pupils” could include anything from the formal assessment of coursework to marking and collating scores from a multiple-choice test. Clearly, the former is a more complex and demanding task that requires the skills of a qualified teacher, while the latter could be delegated.
24. In deciding on the level of supervision needed, headteachers will therefore need to take account of both the skills, expertise and experience of the support staff member, and the level of challenge in the work being undertaken. They should also consider whether the support staff member has undergone relevant training.
25. The Regulations do not prevent support staff from undertaking more challenging activities. Teachers, using their professional judgement, are best placed to determine which activities can be delegated to support staff who have been identified as appropriately skilled by the headteacher. Accountability for the overall learning outcomes of a particular pupil will rest with that pupil’s qualified teacher.
26. In any circumstances where an unqualified teacher or instructor is employed under the provisions set out in the Regulations, the headteacher must exercise their professional judgement about the best way of promoting high standards in ways that are consistent with the objective of reducing the workload of qualified teachers. Following the workforce reforms, and the continued expansion of new routes to QTS, it is likely that the number of instructors employed in schools should reduce over time, and many schools will choose to encourage existing instructors to enter a route towards qualified teacher status.



# PART II – Establishing a system of supervision

## DEFINING A SYSTEM OF SUPERVISION

27. A system of supervision is required for each member of support staff who undertakes the 'specified work' set out in the Regulations. The system should not be bureaucratic and may build on existing arrangements where appropriate. It should include:

- a. which elements of the 'specified work' can be carried out by the particular member of staff (the job description);
- b. which qualified teacher is responsible for supervising that work and how that supervision will be delivered (the supervision arrangements). As set out in paragraph 17 cii above schools may find, in practice, that people mentioned in paragraphs 4-9 of Schedule 2 of the Regulations (who will benefit from the contractual changes set out in the National Agreement) may need to be involved in the supervision and direction of support staff. This will be a matter for the headteacher, taking account of all the circumstances involved, including the conditions placed on employing instructors and based on their knowledge of the skills and experience of the unqualified teacher or instructor.

28. It is inevitable that different members of support staff will undertake the 'specified work' to different levels, depending on their skills and experience. The level at which they are working should determine the level of supervision needed. For example, an inexperienced teaching assistant would require direct supervision and should not be left alone with a class, while an experienced teaching assistant who has undergone training and meets the national standards for higher level teaching assistants would not require the qualified teacher assigned to that class to be present at all times.
29. For some support staff, particularly those involved in 'cover supervision', their work with pupils may be purely supervisory in nature and therefore may not involve elements of the 'specified work'. However, even 'cover supervision' may involve elements of the 'specified work' such as supporting pupils by answering questions about the work they have been set. It is recommended that, when in doubt, headteachers should include such staff in the formal system of supervision.
30. The headteacher should determine which of the activities within the 'specified work' fall within the competence of each member of support staff and should ensure that an appropriate arrangement for supervising those tasks is in place. The arrangements should not be bureaucratic and must be consistent with the objective of the National Agreement in making progressive reductions in teachers' overall workload.
31. For those undertaking the 'specified work' at a higher level, especially where this includes delivery of lessons to whole classes, it is strongly recommended that the headteacher should have regard to the standards for HLTAs and that they should take account of whether the individual has received training to meet those standards or has undertaken other training or qualifications of an appropriate standard such as Foundation Degrees for teaching assistants, the Specialist Teaching Assistant Course, and early years qualifications awarded by accredited bodies.

## ESTABLISHING THE SYSTEM OF SUPERVISION

32. Many of the support staff carrying out 'specified work' will already be employed by the school. Others may be newly appointed and as for all new support staff, the headteacher will need to ensure that the standard checks for anybody working in a school are carried out. These cover identity, academic qualifications, references, previous employment history and a criminal record/List 99 check. Given the nature of the work likely to be carried out by staff working regularly with children, it is strongly recommended that an enhanced disclosure, the same as required for teachers, is requested from the Criminal Records Bureau. Further information on carrying out pre-appointment checks can be found in DfES guidance issued in May 2002 (reference DfES/0278/2002). The headteacher will normally be expected to lead in making support staff appointments, and will need to work within the wider arrangements for staffing matters (see School Staffing (England) Regulations 2003 and guidance).
33. In addition, the headteacher should ensure that each member of the support staff is aware of his/her responsibilities relating to health and safety and the duty of care towards the pupils. This could include the provision of training in first aid and the safe use of equipment within the school – of particular importance for those undertaking practical work with pupils. Other training, in behaviour management and in the use of physical contact and when and how restraint should be used, will also be appropriate. It is also important that the school's insurance policy covers the member of staff to a level appropriate for the work that they are undertaking and schools should liaise with their LEAs to ensure that this is the case.

## The job description

34. For those support staff who are employed by or regularly work in the school, the headteacher should put together a job description including details of the 'specified work' that the member of support staff is expected to do. This will take account of the individual's experience, training and qualifications and the particular needs of the school. For individuals, such as volunteers, who are not employed by the school, it will still be necessary for the headteacher to ensure that there is clarity about the work to be undertaken according to the experience and skills of the person involved.

35. Paragraph 10(3)(b) of Schedule 2 of the Regulations suggests that headteachers may have regard to LEA/employer guidance on contractual matters when deploying staff to undertake 'specified work'. In drawing up job descriptions the headteacher should refer to advice and agreed job profiles provided by the LEA and the National Joint Council for Local Government Services. This may have implications for pay and grading. Community, voluntary controlled and community special schools must select an appropriate grade from those in use at the LEA. All schools should ensure that the pay and gradings selected for each job reflect the level of responsibility, expertise and skills required in that particular role.
36. Any revision of job descriptions of existing staff should normally be agreed between the headteacher and the member of staff, taking account of any requests for additional or refresher training the individual feels they need to fulfil their role. An extension of working hours must be by agreement. Taking on additional roles and responsibilities should not be compulsory but many staff may wish to do so with the necessary training and appropriate pay and grading.

### The supervision arrangements

37. The National Agreement states that each class or group timetabled for a core and foundation subject and for religious education must have assigned to it a qualified teacher to teach it (subject to the unqualified teacher provisions in the Regulations). This teacher will be responsible for the progress of the pupils in the class/group which they have been assigned to teach over the course of the academic year. Such teachers may be assisted in their work by support staff, some of whom will carry out 'specified work'. All support staff who carry out 'specified work' must do so under the direction and supervision of a qualified teacher (see paragraph 17). Having assigned a qualified teacher to teach each class/group does not prevent other teachers from being deployed on the timetable to take that class/group for particular activities or lessons.

## Supervision arrangements

38. Support staff who assist assigned teachers may have two distinct types of supervision:
- supervision of activities relating to teaching and learning; and
  - line management.

## Supervision of activities relating to teaching and learning

39. Support staff undertaking specified work will be directed and supervised by a qualified teacher. If they undertake this work with a number of classes/groups they are likely to be subject to the direction and supervision of several teachers. The nature of the direction and supervision may vary according to the level of 'specified work' undertaken.
40. Support staff who are less experienced and undertake only limited aspects of 'specified work' will require more close supervision and support from the teacher with regard to the materials to be used and the nature of the tasks they can undertake with pupils. Experienced support staff, with appropriate training and qualifications, may be given greater autonomy to identify suitable materials and manage tasks within the framework set by the qualified teacher.
41. Supervision arrangements for all support staff undertaking activities to support teaching and learning should include time for teachers and support staff to discuss planning and pupil progress within the contracted hours of the support staff.
42. The headteacher may determine that a member of the support staff has the appropriate qualification or experience to be used to release a teacher for planning, preparation and assessment (PPA) time. In these circumstances, if difficulties arise the member of support staff should use the school's usual referral system in the same way as a qualified teacher would in the case of an emergency. A teacher who is on PPA time must be treated as not available and their PPA time must not be encroached upon.

## Line management

43. Line management of support staff is distinct from direction and supervision by a qualified teacher for activities relating to teaching and learning. Line management covers the more general, day-to-day matters relating to the management of support staff. Whilst support staff may be supervised and directed by several qualified teachers for work related to teaching and learning activities, they should have only one line manager.
44. It should not automatically follow that because qualified teachers direct and supervise one area of support staff work they are required to undertake any aspects of line management of support staff.
45. It is recommended that support staff should be integrated into the school's appraisal arrangements. Line managers who co-ordinate the work of the support staff and provide support should undertake appraisal. Qualified teachers who direct and supervise support staff should provide feedback to the line manager on progress, to inform the appraisal process.
46. Regular review will also allow an assessment of the training and development needs of support staff so that they can develop professionally and improve the level of support that they can offer to qualified teachers.
47. The DfES booklet "Working with Teaching Assistants – a good practice guide" (reference DfES 0148/2000) provides useful information on the effective management and deployment of support staff in and beyond the classroom.

#### EXISTING SUPPORT STAFF

48. Many schools already use support staff, such as teaching assistants and nursery nurses, to undertake some aspects of the 'specified work'. It is expected that the grading, pay and conditions of such staff should reflect the high level of the work they are undertaking. Those who are already undertaking aspects of the 'specified work' may continue to do so, subject to the provisions in the Regulations. The headteacher must ensure that 'specified work' is subject to a system of supervision and that individuals have received the training appropriate to the level at which they are working. Where these staff have clear job descriptions and arrangements for their management, this should not require additional bureaucracy on the part of the school.

#### EXTRA-CURRICULAR ACTIVITIES LED BY SUPPORT STAFF

49. The Regulations cover support staff who carry out the 'specified work' as part of the delivery of the school's curriculum, whether in school or away from the school. Such a regulated system of supervision is not required for extra-curricular activities. Schools will need to ensure that extra-curricular activities are of high quality and add value. The member of support staff undertaking these activities will need to be aware of their responsibilities for the health, safety and welfare of the pupils.



Copies of this publication can be obtained from:

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Please quote ref: DfES/0538/2003

ISBN: 1 84478 056 2

PPAPG/D16/4981/0703/25

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