

Hay Lane School  
Grove Park  
Kingsbury  
London  
NW9 0JY

9<sup>th</sup> November 2003

Cc: Hank Roberts  
Stuart Cankett

## HAY LANE SCHOOL NUT MEMBERS' RESPONSE TO COLIN CONBOY'S REPORT INTO THE ABSCONDMENT OF PATRICK MULLINGS, 26.9.02.

Dear Colleagues,

We wish to make some observations regarding the report. We welcome the investigation and the report which backs up many of the concerns staff had pointed out prior to and following the accident. However, some areas still give us cause for concern.

### RISK ASSESSMENT

The H&S audit conducted in June 2002 stated "there is no written procedure for risk assessments" and "risk assessments for specific visits and journeys are not yet being carried out". The recommendation was "risk assessments should be carried out for all outbased visits". Patrick died in September 2002. Either the contents of the audit were known by the the head and not carried out; in which case, WHY? or she was unaware of these requirements due to the 4 month delay in its publication; it took 4 months to print a report which had requirements within for "immediate" action, WHY?

The Management of H&S at Work Regulations 1999 (Management Regs.) clarify how employers must comply with their duties as laid out in the H&S at Work Act. A central requirement of these regulations is that employers must carry out a risk assessment which must be "suitable and sufficient". It must identify hazards, determine likelihood of harm, identify legal duty relating to hazards, remain valid for a period of time and enable decisions to be made about appropriate control measures.

The school's "generic" risk assessment which had been deemed sufficient for the trip was a notable omission from Colin's catalogue of evidence meaning it was withheld from the majority of staff and others reading the report. WHY? The copy we were sent (see Appendix 1) shows a risk assessment which is totally inadequate and does not fulfil to any degree the requirements stated above. A generic risk assessment for regular visits to a particular venue might be acceptable if regularly reviewed but a so called generic risk assessment for all possible types of visits to all possible places with all possible types of pupils is nothing short of absurd. And what's more, according to Colin, the risk assessment was probably not even seen by staff conducting the trip. So what was the good of having it?

## PLANNING OF THE TRIP/PARENTAL CONSENT

The only policy on school visits which came to light (of which most staff were unaware) was produced in 1994 (Appendix 2). Again, this was omitted from the catalogue of evidence. WHY? This policy is totally inadequate to cover changes in legislation and advice since its writing. However, it states “all trips other than those planned on a regular, timetabled basis must be planned on a request for educational visits form at least two weeks in advance of outing”. (Appendix 3) This was not done. WHY? This was not a regular, timetabled visit; it was not mentioned in any school prospectus or yearly calendar of events and parents had not been informed that it might take place. WHY? The policy then goes on to state that following consent from headteacher, “letters to go to parents and carers”. This was not done. WHY? The “generic” risk assessment also states that “parental permission is obtained prior to trip”. The argument given for this not having been done is the school’s annual consent form which supposedly covers all trips and events of varying risk. However, this form had no space for a signature and therefore no legal validity. (Appendix 4) After the event the form was changed to include space for a signature. The Hay Lane School trips policy also states “arrangements to be made regarding pupils not included on a trip”. Colin has said, in his report, that “the decision which class and staff should attend was made by Phillip Gore on the 25<sup>th</sup> September” (i.e. the day before the trip). However, the final decision regarding the participation of two pupils was not made until the actual day of the trip.

## STAFFING RATIOS

Colin’s report states “the supervision arrangements made by the Head and Deputy I find to be appropriate in the context of a workshop where additional experienced adults could be expected to assist with the supervision”. The school’s “generic” risk assessment states that “centre employees supervise all activities”. However, the Special Connection Health & Safety Policy for Workshops states “to ensure that all prospective participating schools are aware that the health and safety of their students is their responsibility”. There are contradictions apparent in these statements as to who is responsible for ensuring safe supervision. WHY? Colin also points out in his report that Special Connections staff, during part of the time, were “more concerned with getting their own equipment ready and sorting themselves out for the next session so they weren’t really involved with the school groups at that time”. Colin also states that HASPEV recommends a ratio of 1:6 for Key Stage 1 pupils, but, as he acknowledges, these are recommendations designed with mainstream schools in mind and there are no specific guidelines on ratios for special schools. Looking further into this though, we can see that to use a ratio of 1:6 for a Key Stage 1 class from a mainstream school, that would be more than doubling the usual classroom ratio of 1:30 (or 1:15 at best). However, this class left Hay Lane school with exactly the same staffing ratio they would have in the classroom and no increase at all. It would be equivalent to taking a group of 30 mainstream reception children out with only 1, or at most 2 adults; unheard of! WHY? But Colin finds “little evidence that supervision arrangements in a general sense were an underlying cause of the incident”. WHY?

## PREVIOUS ABSCONDMENTS

Colin states that “at Hay Lane School I found no evidence of any successful abscondment by pupils since one in the early 1980s” A reason for this is stated in the H&S audit “some reportable accidents and incidents....have not been reported to HSL”. A recommendation was to ensure that completed accident/incident forms reach HSL within 5 working days of the occurrence. To our certain knowledge this was not always being done. WHY? There was a “successful” abscondment from Hay Lane School by a boy in the early 1990s. Patrick had also absconded twice, in recent months, from his home and Brent school transport and he had also absconded from his classroom into the school car park which had gates open to the road. On these various occasions the respective pupils had been found running down the middle of the road in Stag Lane, wandering in the middle of the Edgware Road in Colindale and at Tottenham Court Road “McDonalds”. The school was fully aware of all these incidents. This surely makes the HSE’s investigation, which hung on the fact that to apportion blame, “the standard required by precedent was a real and immediate threat to life of which they ought to have knowledge and fail to take preventative action” questionable in its validity.

## TRAINING

Hank Roberts’s report of May 2003 states “no general H&S training was ever organised for the staff.....new staff, including temporary staff (a number of whom went on the fateful trip) were never made aware of H&S requirements in any meaningful, consistent, organised fashion”. Colin states that “induction of staff is inconsistent and inadequately structured in relation to H&S information”. The H&S audit conducted in June 2002 said “school has not yet produced a written procedure for the induction of staff”. Staff members at the school who contributed to Hank Roberts’s report are satisfied that Colin has acknowledged our concerns regarding lack of training.

## MATTERS NOT ADDRESSED

We are dissatisfied that certain areas have not been covered by Colin’s report....

- Communication systems in the school – Colin has supposedly dealt with this by stating that it suffered setbacks when the H&S Rep resigned. However, Union H&S Reps are not part of the management structure and have no legal duties. It is the management’s legal responsibilities that were not adequately exercised. Staff were discouraged from raising H&S issues in meetings for years.
- Implementation of policies and documents – many, if not most policies and documents referred to in Colin’s investigation were not seen by or known to staff e.g. 1994 educational visits policy/ 2002 H&S policy/ generic risk assessment/ restraint policy/ H&S audit/ emergency procedures/ school trip procedures/ etc., and therefore they were not actively implemented.

- HASPEV (DfEE 1998) was used as the benchmark in Colin's investigation. How did the school match up to the H&S at Work etc. Act 1974? and the Management of H&S at Work Regs 1999?
- Colin's catalogue of evidence does not contain the school's care plan for Patrick.
- Regarding the wrist strap; was it allowed or wasn't it? There is a school policy stating that physical restraints can be used (Appendix 5). Why wasn't it, one would ask, if the 1:1 care worker was needing to leave Patrick in order to take another pupil to the toilet?
- Counselling – in Colin's statement, "counselling was provided for school staff", he fails to investigate how the school as a whole coped with the effects of the tragedy. Three weeks after the accident staff had still not had counselling provided. Pupils never had it, though some teachers recommended that the pupils in their care were in need of it. Many staff who wished to attend the funeral were unable to as the school was not closed on the day. A request from a member of staff involved in the accident to move to another class for a "fresh start" was denied and so she consequently left the job altogether, citing this as a major factor. One year on, many staff are still suffering mentally and physically from the aftermath of all this emotional trauma. It cannot be glossed over. There should be a detailed policy drawn up regarding the implementation of counselling and other care procedures in schools should there be any similar future tragedy. Will this be done?

## WHISTLEBLOWING

Staff who were interviewed by Colin understood and were told that this was under the Council's "Confidential Reporting Procedure" which states that it will "preserve their anonymity" to protect the person reporting. Staff have expressed concerns to us that their names were published in the report. We suspect it is likely that they will not choose to use this procedure again which does not bode well for future investigations.

## TWO QUESTIONS FOR BRENT

1. Why did the H&S audit report not get printed until October 2002 when it had been conducted in June? A 4 month delay.
2. Why did Brent not send HASPEV to schools until December 2001 when it was published in 1998? A 3 year delay.

Members of the NUT at Hay Lane School trust that their concerns, as stated above, will be passed on to the relevant parties concerned and dealt with honestly and effectively. We look forward to your reply.

Jenny Cooper and Anne Ellis  
NUT Representatives Hay Lane School