

## **Guidance**

Organisation & Management DfES/0803/2001

Chief Education Officers  
Health and Safety Advisers  
Outdoor Education Advisers  
Head Teachers  
Chairs of Governors

## **Status**

Statutory

# **HEALTH AND SAFETY: RESPONSIBILITIES AND POWERS**

## **Related documents:**

*School Standards and Framework Act 1998*

## **Overview**

- This document seeks to clarify responsibilities under existing health and safety legislation. It explains who is responsible for the health and safety of school staff, pupils and others on school premises or when engaged on educational activities elsewhere including visits. It sets out related powers under education legislation and the key elements that a health and safety policy should include.

**Action required:** Recipients to note and inform staff.

## **Contact details:**

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# Responsibility for Health and Safety in Schools

## Health and Safety at Work Law

- Health and safety responsibilities derive from the Health and Safety at Work etc. Act 1974 and associated regulations. Health and safety legislation is enforced by the Health and Safety Executive (HSE).

## Employer

- The Health and Safety at Work etc. Act 1974 places overall responsibility for health and safety with the employer. Who this is varies with the type of school.
  - For community schools, community special schools, voluntary controlled schools, maintained nursery schools and pupil referral units the employer is the Local Education Authority (LEA).
  - For foundation schools, foundation special schools and voluntary aided schools, the employer is usually the governing body.
  - For independent schools, the employer is usually the governing body or proprietor.
- The Local Authority/LEA is the employer for statutory youth groups. (Note: those in charge of non-statutory youth groups may also find this document useful.)
- Education employers have duties to ensure, so far as is reasonably practicable:
  - the health, safety and welfare of teachers and other education staff;
  - the health and safety of pupils in-school and on off-site visits; and
  - the health and safety of visitors to schools, and volunteers involved in any school activity.

## Employees

- Employees have responsibilities too. The Health and Safety at Work etc Act 1974 and the Management of Health and Safety at Work Regulations 1999 apply to them as well. Employees must
  - take reasonable care of their own and others' health and safety;
  - co-operate with their employers;
  - carry out activities in accordance with training and instructions; and

- inform the employer of any serious risks.

## **Enforcement**

- The HSE enforces health and safety law relating to the activities of LEAs and schools.
- Because the employer is responsible for health and safety in the workplace and on work activities the HSE will normally take action against the employer. However, in some circumstances, for example where an employee failed to take notice of the employer's policy or directions in respect of health and safety, the HSE may take action against the employee as well or instead.

## **Responsibility – All Schools**

- The employer must have a health and safety policy and arrangements to implement it. The Health and Safety at Work etc Act 1974 applies. Key elements of a health and safety policy are listed in the annex (note: this is not a comprehensive list).
- Employers must assess the risks of all activities, introduce measures to manage those risks, and tell their employees about the measures. The Management of Health and Safety at Work Regulations 1999 apply.
- In practice, employers may delegate specific health and safety tasks to individuals (LEAs may delegate specific tasks to schools). But the employer retains the ultimate responsibility no matter who carries out the tasks. The employer should therefore maintain an audit track, making clear who is doing what and confirming that these tasks are being carried out.

## **Community and Voluntary Controlled Schools etc.**

### **Responsibility**

- As the employer, the LEA has responsibility for health and safety in community schools, community special schools, voluntary controlled schools, maintained nursery schools, pupil referral units and the statutory youth service. It has the power to ensure that its health and safety policy is carried out in-school and on all school activities.
- The LEA must provide health and safety guidance to those schools and services where it is the employer. It must ensure that staff are trained in their health and safety responsibilities as employees and that those who are delegated health and safety tasks (such as risk assessment) are competent to carry them out. If an LEA risk assessment shows that training is needed, the LEA must make sure this takes place.
- The LEA can direct schools to release staff for health and safety training where the scheme for financing schools contains such a provision. If it does not, LEAs may wish to consider the need for an amendment to their scheme. If the scheme allows, the LEA can charge

the school for any training the LEA has provided.

- It is good practice for community, community special and voluntary controlled schools etc. to draw up their own more detailed health and safety policies based upon their LEA's general policy

### **Monitoring and Compliance**

- The LEA cannot fulfil its statutory duty unless it monitors how its schools are complying with the LEA policy. The LEA should monitor this robustly to ensure required standards are reached and should take action where they are not.
- LEAs' statutory school financing schemes can be expected to contain a number of provisions enabling the LEA to ensure that schools have regard to health and safety requirements. Such schemes are made under section 48 of the School Standards and Framework Act 1998. They are commonly known as Fair Funding Schemes.
- Where an LEA believes the health and safety of anyone on-site, or of anybody engaged on school activities off-site, is at risk it can make a direction to the governing body and head teacher.
- A direction can specify action to be taken (e.g. remedy a health and safety failing). Or it can require the governing body and head teacher to comply with a specific aspect of the LEA's health and safety policy. Section 39(3) of the School Standards and Framework Act 1998 applies.
- In the event of non-compliance with a section 39 direction, the LEA can apply to the Secretary of State for a direction. Section 497 (general default powers) or section 496 (power to prevent unreasonable exercise of functions) of the Education Act 1996 applies.
- Ultimately and rarely, compliance would be enforceable through the courts. Substantial or persistent non-compliance with scheme requirements is a ground for suspending delegation, subject to the governing body's right of appeal.

### **Can an LEA intervene in Foundation or Voluntary Aided Schools?**

- Under section 15(2)(iii) of the School Standards and Framework Act 1998 an LEA may give a warning notice to any maintained school (community, community special, foundation, foundation special, voluntary aided or voluntary controlled) in its area where the safety (not the health) of staff or pupils is threatened by, for example, a breakdown in discipline.
- But the HSE and the Department for Education and Skills share a view that the intervention power in section 15, as set out above, is not normally an appropriate means of enforcing health and safety requirements in schools. This is subject to any ruling by the Courts.

### **Reserve Power of Entry**

- LEAs may need to obtain information in order to exercise any of their general responsibilities. They should normally be able to do this as employers or owners of school premises. Where they cannot reasonably do this, they may use their reserve right of entry to any school maintained by them. For health and safety purposes, this enables them to enter the premises of any community, community special or voluntary controlled school to obtain the information needed. Section 25 of the School Inspections Act 1996 applies.

### **Code of Practice on Local Education Authority-School Relations**

- This does not address LEAs' duties as employers under the Health and Safety at Work etc Act 1974 and other relevant statutory duties. The guidance in the Code is not intended to override any of those duties.

### **School Funding Arrangements**

- LEAs' fair funding schemes should retain sufficient power to ensure they meet their health and safety responsibilities and that necessary work is carried out. The schemes should require governing bodies to:
  - supply all financial and other information to enable the LEA to be sure that the school is managing its budget satisfactorily;
  - have due regard to the LEA's responsibilities for health and safety;
  - assess in advance where relevant the health and safety competence of contractors taking account of the LEA's policies and procedures.
- Schools may take advice on health and safety from other bodies but must heed the policy of the LEA.
- Schemes should allow the LEA to pay for (and recoup the costs for) health and safety work for which it is liable where funds have been delegated to schools for such work but where the work was not done.
- Schemes should also allow the LEA to recoup the costs of necessary health and safety training for staff from a school when funding for training is delegated but suitable training has not taken place.
- LEAs can hold back funds to cover strategic management of health and safety i.e. establishing policies and setting standards, providing competence at a strategic level, carrying out active and reactive monitoring, reviewing the policies and standards, and advising schools.

### **Foundation, Voluntary Aided and Independent Schools etc.**

#### **Responsibility**

- The governing bodies of foundation, foundation special and voluntary aided schools have similar responsibilities, as employers, to those set

out above for LEAs.

- In independent schools the employer may be a governing body or proprietor. The employer also has similar responsibilities.
- In some circumstances there may be staff employed by the LEA working on the premises of foundation, foundation special or voluntary aided schools. The LEA, as employer, has responsibility for their health and safety. The governing body also has responsibilities towards them, as visitors. See also next paragraph.
- Some foundation, foundation special, voluntary aided or independent schools may have links with the LEA through such activities as the Duke of Edinburgh's Award. Or some of the staff in some of these schools may be employed by the LEA. Where either of these apply, the school should refer to the section **Community and Voluntary Controlled Schools etc.** above.

### **LEA Advice**

- Many LEAs provide health and safety advice to foundation, foundation special, voluntary aided or independent schools. The Department encourages this. However, LEAs are not responsible for the health and safety of pupils in these schools or of staff employed by these schools. This does not conflict with the LEA's duties with regard to Asset Management Plans.

### **List of other sources**

*HSE Website* [www.hse.gov.uk](http://www.hse.gov.uk)

*HSE Five Steps to Risk Assessment -*

<http://www.hse.gov.uk/pubns/indg163.pdf>

*HSE A Guide to Risk Assessment Requirements -*

<http://www.hse.gov.uk/pubns/indg218.pdf>

*Health and Safety Commission (HSC) Managing health and safety in schools*  
£5.95

*HSC Health and safety guidance for school governors and members of school boards* £5.95

*A Guide to the Law for School Governors (DfES 2001)- Community Version - Voluntary Aided Version - Voluntary Controlled Version- Foundation Version.*  
website <http://www.dfes.gov.uk/governor/info.cfm>

*DfES School Security website* [www.dfes.gov.uk/schoolsecurity](http://www.dfes.gov.uk/schoolsecurity)

*DfES Health and Safety of Pupils on Educational Visits: A Good Practice Guide* [http://www.dfes.gov.uk/h\\_s\\_ev/index.shtml](http://www.dfes.gov.uk/h_s_ev/index.shtml)

*DfES/DH Supporting Pupils with Medical Needs: A Good Practice Guide -*  
<http://www.dfes.gov.uk/medical>

*DfES Guidance on First Aid for Schools* <http://www.dfes.gov.uk/firstaid>

*DfES/Home Office School Security: Dealing with Troublemakers -*  
<http://www.dfes.gov.uk/schoolsecurity/dwthome.shtml>

*DfES video "Can you see what they see?"*

*DfES Code of Practice on Local Education Authority-School Relations -*  
<http://www.dfes.gov.uk/lea/>  
*Guidance on Standards for School Premises (ref DfEE 0029/2000).*  
*DfES/CEDC Safe Keeping: A good practice guide for health and safety in*  
*study support (Ref DfEE 0197/2000)*

HSE publications (priced and non-priced) are available from HSE Books Tel:  
01787 881165  
DfES guides are free from DfES publications Tel 0845 6022260  
HSE's infoline is 08701 545500

## **Legislation referred to in this document**

### **Health and Safety legislation**

*The Health and Safety at Work etc. Act 1974.*  
*The Management of Health and Safety at Work Regulations 1999*  
*Reporting of Injuries, Diseases and Dangerous Occurrences Regulations*  
*1995 (RIDDOR)*

### **Education legislation**

*Education (School Premises) Regulations 1999 (SI 1999 No.2)*  
*School Standards and Framework Act 1998*  
*School Inspections Act 1996.*  
*Education Act 1996*

## **Further copies of this guidance**

DfES Publications  
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Also on the internet at [www.teachernet.gov.uk/visits](http://www.teachernet.gov.uk/visits)



## Key Elements of a Health and Safety Policy

- A general statement of policy
- Delegation of duties as allocated tasks
- Arrangements made to put in place, monitor and review measures necessary to reach satisfactory health and safety standards
- Training of staff in health and safety including competence in risk assessment
- Off-site visits including school-led adventure activities
- Selecting and controlling contractors
- First-Aid and supporting pupils' medical needs
- School Security
- Occupational health services and work-related stress
- Consultation arrangements with employees
- Workplace safety for teachers, pupils and visitors
- Violence to staff
- Manual handling
- Slips and trips
- On site vehicle movements
- Management of asbestos
- Control of hazardous substances
- Maintenance and when necessary examination and test of plant and equipment such as electrical equipment, local exhaust ventilation, pressure systems, gas appliances, lifting equipment and glazing safety.
- Recording and reporting accidents to staff, pupils and visitors - including those reportable under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR).
- Fire safety, including testing of alarms and evacuation procedures
- Dealing with health and safety emergencies – procedures and contacts