

# ***'Every School a Good School'***

## ***The Governors' Role***

### **A Guide for Governors**

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# 1. Introduction

## About the Guide

1.1. 'Every School a Good School – The Governors' Role' is an online reference guide about the roles and responsibilities of school Boards of Governors. It provides school governors with easy access to information and it can assist governors to identify their training needs. It will be updated on a regular basis to take account of changes in policy and legislation.

1.2. The Local Management of Schools (LMS) arrangements continue to operate with decisions on school matters being delegated to school Boards of Governors according to school management type. Future editions of this guide will highlight any changes in these arrangements.

1.3. The range of responsibilities described in the guide is significant. However, governors do not need to be experts to manage them. Help and advice is available from various sources including the school Principal, the Education Authority (EA) and the Council for Catholic Maintained Schools (CCMS). Governors can develop their own knowledge through training and networking with other governors at training and conference events. The EA delivers an annual training and support programme for members of Boards of Governors.

1.4. The guide includes a list of the legislation, policy and other documents which affect the roles and responsibilities of school governors for reference purposes. However, the guide does not replace the law and it is not possible to offer a definite interpretation of the law as this is a matter for the Courts. Where specific problems arise, the Board of Governors should seek advice from the EA School Support Services. Copies of legislation, if they are not held by the school Principal, can be ordered from:

The Stationery Office (TSO)  
16 Arthur Street  
BELFAST  
BT1 4DG

Telephone (028) 9023 8451  
Email [Belfast.bookshop@tso.co.uk](mailto:Belfast.bookshop@tso.co.uk).

1.5. Copies of all the Department of Education (DE) circulars have been sent to the school. The school Principal should provide the governors with access to all circulars marked for the information of Boards of Governors and any other circulars or information that they wish to see to enable them to fulfil their responsibilities.

1.6. In this Guide any reference to either gender means both male and female.

## 2. Membership of School Boards of Governors

This chapter contains information about the membership of Boards of Governors of grant-aided schools.

### **The Role of the Board of Governors**

The role of the Board of Governors is to help ensure that its members are equipped to fulfil its statutory functions in relation to the school.

Management skills can be developed through training and the Chairperson can advise the Education Authority (EA), Council for Catholic Maintained School (CCMS) or the Department of Education (DE) of any specific skills or experience which have a bearing on the recruitment of governors to fill vacancies. Also, the Board of Governors can co-opt non-voting governors at any time as a means to enhance its skills and experience.

### **Governor recruitment**

2.1. A school governor must be aged 18 or over. There are no statutory competency requirements relating to the eligibility of persons to hold the office of a school governor. Those nominated, or applying to be a school governor have to be interested in education and have a commitment to the work of the school. However, given the wide range of responsibilities of school Boards of Governors, it is desirable that members have a range of competences, skills and experience to enable them to make a positive contribution to the governance of the school.

2.2. Boards of Governors can contribute to the governor recruitment process by identifying to the relevant authorities any specific competences or skills that would be of benefit to the school Board. The school Board may also encourage or invite individuals with specific competences or skills to formally apply to be a school governor. The EA and DE are open to receiving applications from individuals with an interest in being a school governor.

### **Co-opted Governors**

2.3. The Board of Governors can consider the co-option of governors as a means to extend its competences in specific aspects of school governance. A Board of Governors may co-opt up to 3 persons from the local community to bring additional business management skills and experience into the Board room and any committees of the Board. It may also co-opt up to 3 persons to assist with the provision and management of community activities at an extended school. Co-opted members do not have a vote on the Board of Governors. Being a co-opted governor is a good training ground for someone who may be interested in taking on the responsibilities of a full voting member of the school Board.

## **Child Protection Arrangements**

2.4. [DE Circular 2012/19](#) advises schools and employing authorities of the effect of changes to the definition of Regulated Activity in schools and the repeal of Controlled Activity, introduced from 10 September 2012 by the Protection of Freedoms Act 2012. It also emphasises that pre-employment vetting checks remain a key element of the recruitment process for staff working in schools.

2.5. DE Circular 2016/20 'Child Protection: Record Keeping in Schools' contains records management guidance and should be read in conjunction with DE Circular 2015/13 <https://www.education-ni.gov.uk/publications/circular-201620-child-protection-record-keeping-schools-0>.

## **Scheme of Management**

### **Membership of the Board of Governors**

2.6. Every school must have a scheme of management approved by DE. This scheme provides for the membership of the Board of Governors as well as its functions and procedures. The Principal should provide every governor with a copy of the scheme of management for the school on their appointment (see Chapter 4 for more information).

2.7. Any question arising as to the right of any person to be, or to appoint or nominate, a member of the Board of Governors of a grant-aided school is required by law to be decided by DE whose decision is final.

### **Acceptance of Membership**

2.8. Every member should, at or before the first meeting of which they have been notified, sign a declaration of their acceptance of membership and of the scheme of management for the school and submit it to the secretary of the Board of Governors, otherwise their membership will be void.

### **Disqualification from Membership**

2.9. A person, (other than the Principal or an elected teacher governor) cannot be a governor if they:

- are employed in the school
- have within the five years before the first day that their membership could have taken effect or at any time thereafter been convicted by a court of any offence and has had passed on them a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine
- are adjudged bankrupt or have made a composition or arrangement with their creditors or are subject to a Bankruptcy Restrictions Order

Where a person is disqualified from membership by having been adjudged bankrupt, the disqualification shall cease:

- on their discharge from bankruptcy, unless the bankruptcy order made against that person is previously annulled
- if the bankruptcy is so annulled, on the date of the annulment

Where a person is disqualified by reason of their having made a composition or arrangement with their creditors and they pay their debts in full, the disqualification shall cease on the date on which the payment is completed and in any other case it shall cease on the expiration of five years from the date on which the terms of the deed of composition or arrangement are fulfilled.

### **Limitation on Membership**

2.10. A person cannot hold more than one seat on the Board of Governors of the same school.

2.11. A person cannot hold office as a member of more than 3 Boards of Governors of grant-aided schools, except with the specific approval of DE.

### **Term of Office**

2.13. The term of office of voting and co-opted members is 4 years, except when a vacancy arises through resignation, the new governor appointed to fill that post will only serve the remainder of that 4 year term of office. Any voting or co-opted member going out of office at the end of the 4 years may be re-appointed, unless they are disqualified or otherwise ineligible. A voting member may remain in office until their successor is appointed.

### **Termination of Membership**

2.14. A voting or co-opted member may resign by giving written notice to the Secretary of the Board of Governors. A member appointed by an EA or by DE may resign by giving written notice to the Director of Education or the School Governance Team of DE respectively.

2.15. Where a voting or co-opted member is absent from three consecutive meetings of the Board of Governors, or for six months consecutively, whichever is the greater period, the Secretary shall report the matter at the next meeting. Unless the Board of Governors is satisfied that their failure to attend was occasioned by illness or other unavoidable cause, the member shall be considered to have resigned their membership and shall cease to be a member.

2.16. A member, other than the Principal or elected teacher governor, ceases to be a member of the Board of Governors when they:

- subsequently become an employee of any school for which the Board of Governors is appointed
- are subsequently convicted of an offence and sentenced by a court

- subsequently become bankrupt or are the subject of a Bankruptcy Restrictions Order

## Vacancies

2.17. When a vacancy occurs among the members, the Chairperson or the school Principal should notify the relevant appointing authority promptly and initiate arrangements to fill it as soon as practicable.

2.18. The proceedings of a Board of Governors are not invalidated by any vacancy among its members or by any defect in the appointment, election or nomination of any member. Nevertheless, it is important for the effective operation of business that all vacancies are filled promptly and that sufficient members attend meetings to make up the quorum specified in the scheme of management for the school.

2.19. Where there are one or more vacancies for elected parent governors at any grant-aided school and the number of parents standing for election is less than the number of vacancies, the required number of parent governors should be made up by persons appointed by the other voting members of the Board of Governors. Where it is reasonably practical to do so, the person appointed should be the parent of a registered pupil at the school. These persons are then regarded as the elected parent governor(s).

2.20. Where, in the opinion of the EA, it is likely to be impractical for there to be elections of parent governors to a school established in a hospital, the required number of parent governors may be made up by persons appointed by the other voting members of the Board of Governors. Where it is reasonably practical to do so, the persons appointed should be the parent of a registered pupil at the school. These persons are then regarded as the elected parent governor(s).

## Membership Categories

2.21. With a few exceptions, the school's Board of Governors is normally made up of members who represent the interests of:

- those who originally founded the school i.e. **foundation governors**
- those who fund the education system. These governors are appointed by the EA and/or DE to represent the public or tax payer's interest i.e. **EA and DE governors**
- parents of registered pupils at the school i.e. **parent governors**
- teachers on the staff of the school i.e. **teacher governors**

2.22. The size of the Board of Governors can range from 8 to 36 members. The exact membership composition for each type of school is laid down in legislation and in the scheme of management for the school; a summary membership table is included at the end of this chapter.

## **Foundation Governors**

2.23. The 4 main Churches (the Catholic Church, the Presbyterian Church, the Church of Ireland and the Methodist Church) and a few other interests established the first non-fee paying elementary schools. These schools continue to provide primary education within our school system.

2.24. The foundation governors of publicly owned .e. controlled primary and secondary schools are nominated mainly by the Protestant Churches or their representatives. They are called 'transferors' representatives because the Protestant Churches and a few other interests transferred their elementary schools into a system of management/partnership with the local education authority under the Education Act (NI) 1923.

2.25. The foundation governors of privately owned i.e. voluntary maintained primary and secondary schools are nominated by the legal owners of the school premises and are called the 'trustee' representatives. For example, the Catholic Church retains all Catholic maintained schools in private voluntary ownership.

2.26. There are no foundation governors for publicly owned nursery, grammar and special schools because these schools were established by the public education service through public funds as the need arose.

2.27. The voluntary grammar schools were established by individual and Church benefactors including some Religious Orders to provide access to schooling on a fee paying basis that could lead to higher education. They were set up at various stages during the last 3 centuries under various Acts of Parliament including Royal Charters. They are registered as charitable organisations and a few are registered as companies. The arrangements for the selection of the foundation governors in voluntary grammar schools can reflect provisions in the school's original instrument of government.

2.28. During the last three decades, new integrated schools have been set up privately by supporters of educating Catholic and Protestant pupils together. The foundation governors reflect ownership interests and the ethos of the school. Existing publicly and privately owned schools can transform to integrated status. The NI Council for Integrated Education is an organisation which supports the development of integrated education.

2.29. Recent years have also seen the development of Irish Medium Schools which provide education through the medium of Irish. These schools can be set up as publicly or privately owned schools. The foundation governors reflect ownership interests and the ethos of the school. Comhairle na Gaelscolaíochta, a voluntary organisation, supports the development of Irish medium education.

## **EA and DE Governors**

2.30. The EA recruits and appoint a proportion of the governors of the schools which they are each responsible for. DE also nominates or appoints governors to a number of schools. Applications from all sections of the general public are welcome.



## **Parent Governors**

2.31. Parents of registered pupils at the school are eligible to stand for election as a parent governor at the school or to vote in that election process. They must have a child attending the school at the time of election. They can complete their term of office even if their child leaves the school in the meantime. A 'Parent' is defined in legislation as a guardian and every person who has the actual custody of the child or young person.

## **Teacher Governors**

2.32. Teachers on the permanent staff of the school are eligible to stand for election as a teacher governor at the school or to vote in the election process. If resigning from the staff of the school, the teacher must also resign from the Board of Governors.

## **Governing Bodies**

2.33 As outlined above governing bodies are made up of individuals elected, nominated or appointed by a range of interests. However, representing the views of those who selected them is not the primary role of the school governor. The primary purpose of the school governor, acting collectively as a member of the Board of Governors, is to ensure that the school is properly managed and delivers high quality education for all its pupils.

2.34 Regardless of the method by which they were selected, all governors (with the exception of those who are co-opted) have the same voting rights. All governors, once appointed, are expected to work together in the best interests of their school and its pupils consistent with the principles of corporate and collective responsibility and their statutory duties and responsibilities. The governors collectively direct the schools affairs and effective operation of the governing body takes precedence over their roles as representatives of particular stakeholder groups.

## **Principal**

2.35. The Principal is a non-voting member and an ex-officio governor because it is considered that to be a voting member would compromise their position as the Head professional adviser to the Board of Governors. The Principal is entitled to attend all meetings of the Board of Governors except where their performance, employment or salary is under discussion. The Principal may act as Honorary Secretary to the school Board.

## Membership of School Boards of Governors by Governor Category<sup>1</sup>

Controlled Schools in public ownership	Number of Governors on the Board	Foundation Governors	EA Governors	DE Governors	Parent Governors	Teacher Governors
Primary & Secondary	9	4	2	None except for 'model' schools	2	1
	16	6	4		4	2
	24	9	6		6	3
Nursery, Grammar & Special	8	0	3	2	2	1
	16	0	6	4	4	2
	24	0	9	6	6	3
Integrated Primary & Secondary	14	2 Transferors	4	0	4	2
		2 Trustees				
	21	3 Transferors	6	0	6	3
		3 Trustees				
Integrated Grammar	14	0	4	4	4	2
	21	0	6	6	6	3
Schools in private Ownership	Number of Governors on the Board	Foundation Governors	EA Governors	DE Governors	Parent Governors	Teacher Governors
Primary & Secondary (voluntary Maintained 100% capital grant)	9	4*	2	1	1	1
	18	8*	4	2	2	2
	27	12*	6	3	3	3
	*Trustee governors must include at least 1 parent in their nominees.					
Primary & Secondary (voluntary maintained 85% capital grant)	10	6*	2	0	1	1
	18	10*	4	0	2	2
	27	15*	6	0	3	3
	*Trustee governors must include at least 1 parent in their nominees.					
Primary & Secondary (Grant Maintained Integrated)	16	6	0	4	4	2
	24	9	0	6	6	3
Voluntary Grammar (100% capital grant)	9	4*	0	3	1	1
	18	8*	0	6	2	2
	27	12*	0	9	3	3
	36	16*	0	12	4	4
	*Trustee governors must include at least 1 parent in their nominees.					
Voluntary Grammar (85% capital grant)	10	6	0	2	1	1
	18	10	0	4	2	2
	27	15	0	6	3	3
	36	20	0	8	4	4
	*Trustee governors must include at least 1 parent in their nominees.					
Voluntary Grammar (no capital grant)	13 or fewer	No set No.*	0	0	1	1
	14 or more	No set No.*	0	0	2	2
	*but must include at least 1 parent in their nominees.					

<sup>1</sup> The Principal and Co-opted Governors are additional to the membership shown above.

## **The Law**

The Education Act (NI) 1923

The Education and Libraries (NI) Order 1986 – Article 10 (*Management of Controlled Schools*)

The Education and Libraries (NI) Order 1986 – Article 11 (*Management of Voluntary Schools*)

The Education and Libraries (NI) Order 1986 – Article 12 (*Limitation on Membership of Boards of Governors*) as amended by Article 37 of the 1993 Order

The Education and Libraries (NI) Order 1986 – Article 13 (*Miscellaneous provisions relating to Boards of Governors*)

The Education and Libraries (NI) Order 1986 – Schedule 4 (*Membership of Board of Governors of Controlled Schools*)

The Education and Libraries (NI) Order 1986 – Schedule 5 (*Membership of Board of Governors of Maintained School*)

The Education and Libraries (NI) Order 1986 – Schedule 6 (*Membership of Board of Governors of Voluntary Grammar School entering into agreement with the Department or Board*)

The Education and Libraries (NI) Order 1986 – Schedule 7 (*Membership of Board of Governors of Voluntary Grammar School not entering into agreement with Department or Board*)

The Education and Libraries (NI) Order 1993 – Article 37 (*Limitation on membership of Boards of Governors*)

The Education and Libraries (NI) Order 2003 – Article 23 (*Removal of members of Boards of Governors*)

The Education Reform (NI) Order 1989 – Article 89 (*Constitution of Boards of Governors for controlled integrated schools*)

The Education Reform (NI) Order 1989 – Article 122 (*Co-option of persons to Boards of Governors of grant-aided schools*)

The Education Reform (NI) Order 1989 – Article 123 (*Schemes of Management*)

The Education Reform (NI) Order 1989 – Schedule 5 (*Membership of Board of Governors of Grant-Maintained Integrated Schools*)

## **Guidance**

DE Circular 2006/06 Child Protection: Recruitment of people to work with children and young people in educational settings

<https://www.education-ni.gov.uk/publications/circular-200606>

DE Circular 2006/25 Child Protection: Vetting of school Governors  
<https://www.education-ni.gov.uk/publications/circular-200625>

DE Circular 2008/03 Child Protection: Pre-employment checking of Persons to work in Schools – new arrangements  
<https://www.education-ni.gov.uk/publications/circular-200803-pre-employment-checks>

DE Circular 2015/13: Dealing with allegations of abuse against a member of staff  
<https://www.education-ni.gov.uk/publications/circular-201513-dealing-allegations-abuse-against-member-staff>

DE Circular 2016/20 'Child Protection: Record Keeping in Schools' contains records management guidance and should be read in conjunction with DE Circular 2015/13  
<https://www.education-ni.gov.uk/publications/circular-201620-child-protection-record-keeping-schools-0>

DE Circular 2017/04 Safeguarding and Child Protection in Schools – A Guide for Schools - <https://www.education-ni.gov.uk/sites/default/files/publications/education/Circular%202017-04%20Safeguarding%20and%20Child%20Protection%20-%20%20A%20Guide%20for%20Schools.pdf>

Safeguarding and Child Protection in Schools – A Guide for Schools - <https://www.education-ni.gov.uk/sites/default/files/publications/education/Safeguarding%20and%20Child%20Protection%20in%20Schools%20-%20%20A%20Guide%20for%20Schools.pdf>

Child Protection Support Service for Schools – School Governors Handbook  
<https://www.education-ni.gov.uk/sites/default/files/publications/education/CPSSS%20School%20Governors%20Handbook%20-%20Revised%20February%202017.pdf>

Circular 2017/20 - Election of parent and teacher members of Boards of Governors  
<https://www.education-ni.gov.uk/publications/circular-201720-election-parent-and-teacher-members-boards-governors>

### **3. Overview of the Roles and Responsibilities of the School Board of Governors**

This is an overview of the roles and responsibilities of a school Board of Governors.

#### **The Role of the Board of Governors**

The role of the Board of Governors is to manage the school with a view to providing the best possible education and educational opportunities for all of the pupils. This involves:

- **setting the strategic direction for the school**
- **taking corporate decisions in relation to the statutory functions of the Board of Governors**

#### **Strategic Governance**

3.1. The Board of Governors has an important strategic role to play in the management of the school. This is to help the school principal and staff, provide the best possible education for all of the pupils. Governors bring their experience, life skills and common sense to this task. In everything they do, they should aim to raise expectations of what can be achieved by all pupils and strengthen the involvement of parents and the community. This involves:

- setting the school's vision and aims
- establishing and maintaining the school's ethos
- setting the school's plans and policies
- monitoring and evaluating school performance
- promoting self-evaluation to sustain school improvement

#### **Setting the School's Vision and Aims**

3.2. The school Board of Governors and the Principal should know the school and its community and have a vision of how they want the school to develop in the future. This vision should reflect the educational goals and targets set for the pupils. It should motivate pupils and staff, build on core educational values and beliefs and moral purpose, be inclusive of stakeholders' values and beliefs and be informed by the most innovative practice on teaching and learning. The vision will be worked out through the School Development Plan. The governors and the Principal should also take note of the characteristics of a successful school set out in Every School a Good School - a Policy for School Improvement.

#### **Establishing and Maintaining the School's Ethos**

3.3. The governors and the Principal should maintain an ethos for the school that promotes the moral, spiritual, intellectual, social and personal development of all its pupils. The school's ethos should contribute to the wider goals of the school and be

clearly defined and understood by parents, pupils, staff, governors and the local community. It should also be consistent with a commitment to promote equality, good relations and diversity within the school and its community; chapter 5 refers.

### **Setting the School's Plans and Policies**

3.4. The School Development Plan includes the school's financial plan, education plans and assessments, where appropriate the school's action plan to address issues identified in a school inspection report, and the school's policies and priorities. This provides the strategic framework within which the school Board, the Principal and staff can monitor, evaluate and improve the nature of the school's curricular and other provisions and the standards achieved by pupils making efficient use of all the school's available resources. The drafting of the school's plans and policies are initially the responsibility of the Principal. Consideration and approval of these plans rests with the school Board and is an important responsibility. Additional information is contained in chapter 6.

### **Monitoring and Evaluating School Performance**

3.5. There are many useful ways of measuring performance which take account of the school's circumstances and seek to measure the value added dimension. The governors, working with the Principal, must decide which key indicators they wish to monitor and make arrangements for the Principal to provide the appropriate data at suitable times. The findings of ETI Reports (where appropriate) along with information contained within data-packs and benchmarking/target-setting guidance provided by DE also need to be taken into account. Additional information is contained in chapter 6.

3.6. Having measured the school's performance, the governors should liaise with the Principal and staff in drawing up appropriate action plans to move the school forward towards improvement. These should in turn feed into the School Development Plan.

### **Promoting Self-Evaluation to Sustain School Improvement**

3.7. School improvement is most likely to be sustained over time when a school establishes a positive culture and commitment to professional growth. Self-evaluation is a process through which an individual teacher, groups of staff, the staff as a whole and senior management reflect on their current practice, identify and celebrate the strengths of the school and identify and address areas for improvement in their work. Guidance documents are listed at the end of this chapter.

3.8 The Education and Training Inspectorate (ETI) provide a self-evaluation guide designed specifically for governors of schools of all types, including the managers of EOTAS centres. The guide entitled 'Inspection and Self-evaluation Framework for Governors' (ISEF) reflects accurately the ISEF for school leaders and enables governors to evaluate the extent of their effectiveness in both supporting and challenging the school leadership to bring about improvement and raise standards. Prior to a full school inspection the ETI will provide governors with a self-evaluation questionnaire about their role in school improvement. These documents and other materials related to school inspection are available at [www.etini.gov.uk](http://www.etini.gov.uk).

## Assessing the Educational and Financial Viability of a School

3.9 Governors, together with the Principal, help set the strategic direction of the school including assessing the school's educational and financial viability in terms of the six sustainability criteria published in the Department's Schools for the Future: A Policy for Sustainable Schools (Sustainable Schools Policy). These are: Quality Educational Experience; Stable Enrolment Trends; Sound Financial Position; Strong Leadership and Management by Boards of Governors and Principals; Accessibility; and Strong Links with the Community. The Sustainable Schools Policy includes a series of indicators underpinning the criteria which Governors can use to help with self-assessment. An Area Planning process is in place for school managing authorities, and sectoral support bodies, to provide support to and work with schools where sustainability issues are identified either by the school itself and/or the statutory planning authorities. A Development Proposal may be required to give effect to changes considered necessary to ensure pupils have access to a high quality education within a sustainable school setting. Links to guidance on Area Planning and the bringing forward of Development Proposals are provided at the end of this section, together with a link to the Sustainable Schools Policy.

### Shared Education

3.10 The purpose of Shared Education is to deliver educational benefits to children and young people, ensure efficient and effective use of resources, promote equality of opportunity, good relations and respect for identity, diversity and community cohesion. In undertaking the responsibility to provide the best possible education and educational opportunities for all pupils, Boards of Governors should give careful consideration to the benefits of Shared Education.

3.11 Shared Education is defined in legislation as the education together of:

- (a) those of different religious belief, including reasonable numbers of both Protestant and Roman Catholic children or young persons; and
- (b) those who are experiencing socio-economic deprivation and those who are not, which is secured by the working together and co-operation of two or more relevant providers. (Shared Education Act (NI) 2016).

3.12 A "relevant provider" means a person providing education at a grant-aided school, or services of any kind (including youth services) which provide educational benefit to children or young persons.

3.13 There are statutory requirements on the Department of Education and the Education Authority to encourage, facilitate and promote Shared Education, including a duty to consider Shared Education when developing, adopting, implementing or revising policies, strategies and plans; and designing and delivering public services. Powers to encourage and facilitate Shared Education have also been provided to other arms-length bodies and sectoral support organisations.

3.14 There are no statutory requirements placed on a school. However, the "*Sharing Works*" policy provides a practical description of how Shared Education should work, including encouraging schools to progress beyond the core minimum requirements for Shared Education, as set out in 2016 Shared Education Act to address the needs of all

groups defined in Section 75 of the 1998 NI Act. This includes education provision through interaction:

- (a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- (b) between men and women generally;
- (c) between persons with a disability and persons without; and
- (d) between persons with dependants and persons without.

3.15 Board of Governors should ensure they are familiar with the Sharing Works policy. Currently, schools are at different starting points; for some, they are beginning their work while others are embedding high quality Shared Education experiences for their pupils.

3.16 Boards of Governors can therefore encourage use of the ETI's "*Framework for School Partnerships*". The framework, which reflects the characteristics of effective performance as set out in "*Every School a Good School*", provides a means to self-assess the extent and quality of Shared Education provision and plan for further development. Best practice in School Development Planning would include actions to develop and embed Shared Education.

3.17 The Education Authority, working with CCMS and other sectoral support bodies, are leading on the development of Shared Education in line with their statutory responsibility. Support and funding is available to assist schools to develop and embed Shared Education; Boards of Governors should encourage Principals to avail of this provision. Boards of Governors should ensure that parents and pupils are kept fully informed of the opportunities and benefits which Shared Education can provide as well as those specific opportunities that are available within their own school.

### **The Children's Services Co-operation Act (Northern Ireland) 2015 and the Children and Young People's Strategy**

3.18 The Children's Services Co-operation Act (Northern Ireland) 2015 came into effect in December 2015. The aim of the Act is to improve co-operation between named **Children's Authorities** (government departments, district councils, Health and Social Care Trusts, the Health and Social Care Board, Public Health Agency, Education Authority, NI Housing Executive, PSNI and the Probation Board) and between the Children's Authorities and **other children's service providers** who provide a children's service or are engaged in activities which contribute to improving the **well-being** of children and young people. Schools fall into the category of children's service providers.

3.19 The Act defines well-being in terms of eight interconnected characteristics, which are:

- Children and young people are physically and mentally healthy
- Children and young people enjoy play and leisure
- Children and young people learn and achieve
- Children and young people live in safety and stability
- Children and young people experience economic and environmental well-being
- Children and young people make a positive contribution to society



- Children and young people live in a society which respects their rights
- Children and young people live in a society in which equality of opportunity and good relations are promoted.

3.20 The Act requires the Executive to adopt a Strategy setting out how it proposes to improve the well-being of children and young people. Although led by the Department of Education, the Strategy is an Executive Strategy which will be delivered by all government departments. The Strategy reinforces the requirements of the Act in respect of co-operation and outlines the initial arrangements to be made by the Executive to promote co-operation across all relevant bodies. This includes adhering to key principles of co-operation; establishing effective structures; and proactively identifying opportunities to co-operate. The new Strategy will provide the Executive's overall strategic direction and outline how Government will work collaboratively to improve the well-being of children and young people.

3.21 The Department of Education is currently in the process of finalising guidance on the Children's Services Co-operation Act (Northern Ireland) 2015 and expects this to issue shortly.

3.22 The school's vision, aims and performance are expected to take into account all relevant outcomes and indicators of the Children's Services Co-operation Act (NI) 2015 and the Children and Young People's Strategy when it is finalised.

### **The Role of the Principal**

3.23. The National Standards for Head teachers recognise the key role that the Principal plays in raising and maintaining levels of attainment in schools in order to meet the needs of every child within the framework of government.

'The core purpose of the Principal is to:

- provide professional leadership and management for the school;
- be the leading professional in the school;
- work with others to secure the commitment of wider community to the school; and
- create a productive learning environment that is engaging and fulfilling for all pupils, drawing on the support of the school community'.

The National Standards are set out in six non-hierarchical areas. These six key areas, when taken together, represent the role of the Principal:

- Shaping the Future;
- Leading, Learning and Teaching;
- Developing Self and Working with Others;
- Managing the Organisation;
- Securing Accountability; and
- Strengthening Community.

## **Corporate Governance**

3.24. The Board of Governors has many varied statutory functions in relation to the local management of schools. In fulfilling these functions, the Board of Governors should support the aims and objectives of the school and act in its best interests. In practical terms this will normally involve:

### **School performance measures**

- engaging actively in developing, approving, monitoring and reviewing the School Development Plan and taking appropriate actions where required
- setting performance objectives for the Principal under Performance Review and Staff Development (PRSD)
- managing the school's finances
- ensuring the school's performance targets are both achievable and sufficiently challenging to lead to and sustain improvement in the standards attained by the pupils

### **Curriculum Planning**

- agreeing a Curriculum Policy
- facilitating the implementation of the Curriculum
- ensuring proper provision for pupils with special educational needs

### **Employment Issues**

- determining the school's staff complement;
- selecting and appointing staff with regard to costs and curriculum needs; and
- managing employment issues including a staff salary policy and staff conduct, discipline and grievance procedures; (in compliance with the laws that prohibit discrimination and harassment and promote equality of opportunity in employment).

### **Pupil Pastoral Care and Protection Issues**

- safeguarding and promoting the welfare and protection of pupils
- setting general principles on good behaviour and pupil conduct
- participating in pupil disciplinary procedures

### **Publication of Information regarding the School and its Pupils**

- providing information for parents about the school and their children
- agreeing and applying criteria for pupil admissions

### **Managing the School Premises and relations with the Community**

- controlling the use of premises, inspecting the premises and equipment annually, and ensuring the school estate is properly maintained (this will involve liaison with the Project Manager when the services are provided by a contractor)
- promoting good relations between the school and the community

To do this governors are expected to:

- prepare for, attend and participate in Board and Committee meetings
- undertake training
- attend school functions where possible
- support the Principal to enable them to control the day to day internal management of the school
- encourage good communications within the school

## **Promoting Good Governance**

3.25. In conducting all of its business, the Board of Governors should

- give proper weight to the advice and guidance from the Principal
- support majority decisions of the Board of Governors
- ensure that the position of governor is not used for personal gain
- declare all potential conflicts of interest
- protect the confidential nature of school business
- work within the school's scheme of management

3.26. The responsibility for governing the school must be shared by the whole Board of Governors. Only the Board of Governors, acting together after discussion within a strong framework of rules and good practice by consensus or majority vote, has the power to question, to challenge or to change things.

3.27. A governor will not incur personal liability in respect of any action taken in good faith in the exercise of the school Board's delegated duties and responsibilities. Good faith, broadly speaking, may be regarded as an act which is undertaken honestly, with no ulterior motive, and in the light of the information available at the time.

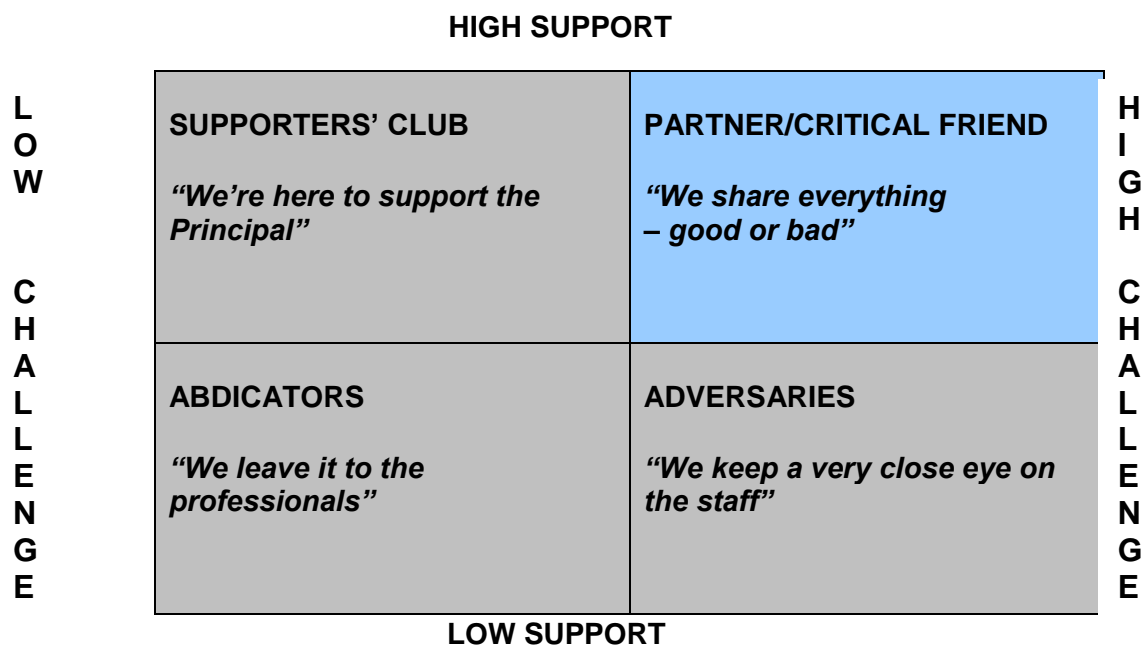
3.28. Every Board of Governors has a role in promoting good governance, and in supporting pupils, staff and parents and the role of the school in the community. The Board of Governors should be involved as an equal partner with the Principal and the Staff Senior Management Team (SMT) in making a significant difference to the life and work of the school. The governors and the Principal should have a good understanding of and respect for their separate but complementary roles. Also, the governors should have as a priority both staff and governor development.

3.29. The Principal and the staff should have trust and confidence in the governors' integrity to act in the best interests of the whole school with the pupils at its heart. Trust and confidence are developed when the governors share responsibility for the work of the school both good and bad and take decisions that will lead to improvement in the quality of the school's education provision and pupil performance.

## **Being a Critical Friend**

3.30. The Board of Governors should act as a 'critical friend', asking challenging questions and not 'rubber stamping' decisions made by the Principal. The 'challenge

role' means that the governors make sure that they have the information necessary to enable them to make the right decisions and that they do not succumb to merely rubber-stamping the decisions of the Principal. The following diagram illustrates the varying attitudes that Boards of Governors may adopt in relationship with the Principal in the joint endeavour of leading the school:



The High Support/High Challenge Role is the one which Boards of Governors should aim to adopt. A school sometimes needs things to be said for its own good by a wise and trusted friend who cares about it and whose motives and judgements can be relied upon. The Chairperson especially has opportunities to fulfil the role of a true critical friend. Monitoring and evaluation are essential if a Board of Governors wishes to be a meaningful 'critical friend' because the knowledge of how things are now, gives it the power to make things better in the future.

### **Supporting Pupils, Parents and Staff**

3.31. School Boards of Governors who are seen to support the pupils send out a clear message that the pupils are valued and are an encouragement to the pupils as well as to the school staff, parents and the local community.

3.32. The involvement of parents in children's education contributes significantly to pupils' educational achievements and in recognition of this; many schools have established effective partnerships between home and school. It is important that Boards of Governors:

- engage parents in their children's education and the work of the school;
- support parents in fulfilling these responsibilities; and
- respond appropriately to parents' concerns or formal complaints relating to their children as pupils of the school.

3.33. Parents have considerable rights and responsibilities when it comes to their child's schooling (Appendix 4 refers). Boards of Governors need to have a clear understanding of parental rights and responsibilities and take proper account of them in their dealings with parents.

3.34. The teaching and non-teaching staff are often required to implement decisions made by the Board of Governors or are affected by its decisions. It is important, therefore, that all Governors are seen to support the staff and to offer them as much encouragement as possible.

## **The Law**

The Education and Libraries (NI) Order 1986 – Articles 10-13 (*School Management*)

The Education Reform (NI) Order 1989

The Education and Libraries (NI) Order 1993

The Education and Libraries (NI) Order 2003

The Special Educational Needs and Disability (NI) Order 2005

The Education and Libraries (NI) Order 2006

The Education (School Development Plans) Regulations (NI) 2010

Shared Education Act (NI) 2016

<http://www.legislation.gov.uk/ni/2016/20/contents>

Northern Ireland Act 1998

<http://www.legislation.gov.uk/ukpga/1998/47/contents>

The Children's Services Co-operation Act (NI) 2015

<http://www.legislation.gov.uk/2015?title=children%27s%20services%20co-operation%20act> .

## **Guidance**

Appendix 3: School Policies

Appendix 4: Parental Rights and Responsibility

A Self Evaluation Guide for Boards of Governors and Principals - School Management Key Aspects 2010 published for Irish Medium Schools by Comhairle na Gaelscolaíochta

Catholic Education –The Vision published by CCMS (2007)

Core Values in Controlled Schools published by the Transferors' Representatives Council

DE Guide to School Development Planning - DE Circular 2010/22, School Development Plans

<https://www.education-ni.gov.uk/publications/circular-201022-school-development-planning-regulations-and-guidance>

Sustainable Schools Policy: <https://www.education-ni.gov.uk/sites/default/files/publications/de/a-policy-for-sustainable-schools.pdf>

Area Planning Guidance: <https://www.education-ni.gov.uk/sites/default/files/publications/education/revised-area-planning-guidance-27-september-2016.pdf>

Development Proposal Guidance: [https://www.education-ni.gov.uk/sites/default/files/publications/education/Revised%20Development%20Proposals%20Guidance%20-%20June%202017\\_2.pdf](https://www.education-ni.gov.uk/sites/default/files/publications/education/Revised%20Development%20Proposals%20Guidance%20-%20June%202017_2.pdf)

## **DE /ETI Publications: School Self Evaluation**

Evaluating Schools 1992 and 1999

Evaluating Pastoral Care 1999

Evaluating Religious Education

Together Towards Improvement 2003

The Reflective Teacher 2005

Improvement through Self-Evaluation -Interactive DVD ROM 2005/6

Evolutionary School Improvement Framework BELB 2007

Quality Indicators: For Use in the Self-Evaluation of Governance 2014

<https://www.etini.gov.uk/publications/school-governance-quality-indicators-use-self-evaluation-governance>

## **Other Models for Self-Evaluation**

Investors in People (IiP) / Charter Mark / EFQM Excellence Model

Self-Evaluation through Attitude Questionnaire (SETAQ) [Schoolcentre.net](http://Schoolcentre.net) on line

Sharing Works – A policy for Shared Education

<https://www.education-ni.gov.uk/publications/sharing-works-policy-shared-education>

Developing Shared Education - A Framework for School Partnerships (ETI)

<https://www.education-ni.gov.uk/publications/developing-shared-education-framework-school-partnerships-november-2014>

Developing Shared Education in Early Years Settings – A Framework for Collaborative Partnerships (ETI) <https://www.education-ni.gov.uk/publications/developing-shared-education-early-years-settings-framework-collaborative-partnerships-2016-2017>

Children and Young People’s Strategy - The draft consultation document is available on the Department’s website at <https://www.education-ni.gov.uk/consultations/children-and-young-peoples-strategy-2017-2027> . The final strategy will be published online in due course.

## 4. The Board of Governors in Operation

This chapter explains how a school Board of Governors should conduct its business.

### **The Role of the Board of Governors**

**The Board of Governors has to fulfil its statutory functions in relation to the school and is accountable for ensuring that its decisions support the best interests of the school and its pupils. To do this, it has to:**

- **set the structures for the delegation of its management functions**
- **set the limits of delegation at each level i.e. committee, Principal**
- **ensure that there are formal written procedures for handling complaints in relation to the school**
- **respect the role of the Principal and work with the Principal on all matters affecting the school**
- **ensure that it has all of the information necessary to make sound management decisions and that it seeks additional advice from the Education Authority (EA) School Support Services as necessary**
- **share responsibility for setting the agenda for its meetings**
- **adhere to the procedures for the conduct of business as set out in the scheme of management (and the procedures agreed for dealing with employment matters - chapter 9 refers)**
- **encourage the involvement of pupils in the development of school councils**

4.1. Under the law, the Board of Governors of a grant-aided school in the Northern Ireland is constituted as a body corporate. As a corporate body, the Board of Governors is legally liable for all decisions and actions taken in its name by a governor (and the Principal) or committees to which it has delegated functions. Access to advice, including on request legal advice, is available to assist the decision making process.

4.2. School governors are expected to act in accordance with the 7 Principles of Public Life (see Appendix 2) when fulfilling their public duties. The school Board of Governors has a wide range of statutory duties and should be ready to explain its decisions to staff, pupils and parents and others to whom it is accountable. In doing so, the Board of Governors should act as a corporate entity and individual governors should respect the sometimes confidential nature of certain aspects of Board room business in the best interests of the school and its staff and pupils.

4.3. The Board of Governors may delegate functions only in accordance with the requirements of the scheme of management for the school (see below) and the financial memorandum for the school (see chapter 8). Decisions to delegate specific functions must be recorded in the minutes.

4.4. Any parental concerns should be treated seriously in accordance with the school's procedures. It is the policy of DE that each school Board of Governors should establish formal written procedures for dealing with complaints. Formal procedures are already established for dealing with certain types of complaints such as those relating to staff grievances and appeals against school admission decisions. However, the governors should have formal written procedures for dealing with all complaints. It is in their best interests to have formal written procedures and to make them available to the wider school community.

4.5. The Public Services Ombudsman (Act) 2016 came into operation on 1 April 2016 and replaced the offices of the Assembly Ombudsman for Northern Ireland and the Northern Ireland Commissioner for Complaints with a single statutory office of Northern Ireland Public Services Ombudsman (NIPSO). With effect from 1 April 2017, the NIPSO's remit was extended to include the Boards of Governors of grant aided schools. The reference section at the end of this chapter provides examples of guidance relating to parental complaints.

## **Role of the Principal**

4.6. The strategic focus of the Board of Governors is on raising the quality of education in the school. Effective leadership within a school by the Board of Governors and the Principal working in close partnership is the key to raising standards.

4.7. The Board of Governors exercises its functions within a strategic framework. The School Development Plan which includes the school's education aims and objectives, the financial plan and the policies and targets for achieving the school's aims and objectives provides that framework. It is important that the Board considers the Principal's advice when agreeing this framework.

4.8. The Principal is responsible for the internal organisation, management and control of the school and for the implementation of the School Development Plan approved by the Board of Governors. A governor should not be involved in the day-to-day running of the school.

4.9. The Principal is the executive governor and should discuss all the main issues relating to the management and operation of the school with the Board of Governors. The Board of Governors, acting as a critical friend, should offer support and constructive advice. Governors can and should raise questions on the Principal's proposals or recommendations. They should where appropriate seek further information to enable them to make sound decisions on the basis of all the available facts. They should be confident that the Principal is providing all the information that the Board requires to enable it to fulfil its statutory obligations effectively.

4.10. The Principal is accountable to the Board of Governors for their performance in relation to their normal duties and for any functions delegated to them by the Board of Governors, in accordance with the scheme of management for the school. To assist the Board of Governors, the Principal must provide the Board with such reports in connection with the exercise of their functions, as the Board requires. The Principal has to ensure that the decisions of the Board of Governors are translated into action. At meetings, the Principal should:



- advise the governors on educational issues and all matters relating to the proper functioning of the school
- submit regular reports, oral and written
- submit a written annual report on the achievements and progress of the school

## **Role of the Chairperson**

4.11. The Chairperson is responsible for the overall conduct of each Board of Governors or committee meeting. They should ensure that all its business is carried out in a structured manner and that all views are heard. Other than in the most extreme circumstances, every governor should be able to express a view and have it considered. The Chairperson must ensure that governors respect the confidentiality of the business discussed.

4.12. The Chairperson is responsible for agreeing the date, time, place and agenda of each meeting. The timing of meetings has to be consistent with deadlines for the decisions required on agenda items. Agenda items may reflect routine issues arising on the school calendar, but the Chairperson has to ensure that items that affect and promote the good governance of the school including raising standards, are included.

4.13. Meetings must be quorate and minutes must be taken and retained of the consideration of agenda items and the decisions made at each meeting and the reasons for those decisions. It must be evident from the minutes that there is an opportunity for governors to declare personal or pecuniary interests. In addition, the minutes of any committee meetings should be referred for information to the next Board of Governors meeting. It is in governors' best interests to follow these procedures.

## **Scheme of Management**

4.14. Every grant aided school must have a scheme of management that provides for:

- the membership and procedures of the Board of Governors
- the management of the school and the functions to be exercised by the Board of Governors, the Principal and any other person or body specified in the scheme

4.15. The scheme for each school must be consistent with education legislation and other statutory instruments including those relating to employment matters and except in so far as education legislation requires, any instrument of government for the school.

4.16. The scheme of management is an important tool which contributes to the effective governance of the school. The Board of Governors is required to operate in accordance with the scheme of management which reflects good management practices and procedures. Each governor should have a personal copy of the current scheme that applies to the school.

4.17. The scheme of management enables the Board of Governors to establish committees and to delegate certain of its own functions to a committee or to the Principal. It is a matter for each Board of Governors to determine its own committee structures subject to the membership provisions in the scheme. Small schools may choose to operate committee structures only occasionally as the need arises.

However, the appropriate use of committee structures will enable the Board of Governors to be more effective in its governance of the school.

4.17. Where a committee is established, the Board of Governors has to:

- define its membership having regard to the provisions in the scheme and the competences of the members in the functions of the committee
- define the extent of the committee's delegated authority
- ensure that it receives the minutes of the committee
- review the committee's membership and remit annually

4.18. A committee should report its recommendations or, as appropriate, its decisions to the Board of Governors.

4.19. The Board of Governors may delegate functions to the Principal in accordance with the scheme of management. The functions that should **not** be delegated by the Board of Governors either to a committee or to the Principal include **the approval of:**

- the School Development Plan
- the School's annual and triennial Financial plans
- the levels of expenditure that may be authorised by a committee, the Principal or a Bursar
- the investigation of financial irregularities
- the school's admissions criteria
- a proposal to change the character or size of the school
- the co-option of governors and the appointment of parent governors (further information is contained in chapter 3)
- the appointment or removal of the Chairperson or Vice-Chairperson
- the appointment, suspension, the cessation of a suspension, the dismissal and the outcome of an appeal against the dismissal of the Principal

## **Pupil Participation**

4.19. Many schools have established participation structures, including School Councils as a way to enable pupils to express their views and have a real say in issues which affect them and the wider school community.

4.20. The Department is committed to encouraging all schools to find meaningful ways of giving their pupils a voice and of listening and responding to the views of young people, however, it does not wish to be overly prescriptive on this matter. It is for individual schools to identify the method and degree of participation which best suits the needs of their pupils.

4.21. [School Circular 2014/14](#), available on the DE website, provides guidance for Principals and Boards of Governors on how to encourage pupil participation in decision making in schools and explains how successful and effective participation can be

achieved. The DE website has further information including guidance on the establishment and operation of [School Councils](#) issued by the NI Commissioner for Children and Young People. The Board of Governors is encouraged to use the available guidance to support the development of genuine engagement with pupils in its own school.

## **Visits to the School**

4.20. It is recognised that governors may need to visit the school from time to time in order to extend their knowledge and to assist them to fulfil their statutory responsibilities. These visits should be arranged in advance with the Principal. Each visit should have a purpose and be planned to cover a range of school work. Visits by governors can be useful but do not replace the monitoring and evaluation carried out by the Principal.

## **The Law**

Education and Libraries (NI) Order 1986 - Article 9A-D, as inserted by Article 123 of the Education (NI) Reform Order 1989 (*Schemes of Management for Grant-aided Schools*)

Education and Libraries (NI) Order 1996, Article 40 and Schedule 4 (the Incorporation of School Boards of Governors)

Public Services Ombudsman Act (Northern Ireland) 2016.

## **Guidance**

CCMS Circular 2003/29 - Handling Complaints in Catholic Maintained Schools (*issued by CCMS December 2003*)

Complaints Procedures for Controlled Schools April 2008 (*issued by Southern Education and Library Board*)

DE Circular 1996/31: Incorporation of Boards of Governors

Guidance for Principals and Governors on the Complaints Procedure for Controlled Schools April 2008 (*issued by Southern Education and Library Board*)

DE Circular 2014/14: Pupil Participation

<https://www.education-ni.gov.uk/publications/circular-201414-pupil-participation-0>

NICCY Pupils' Voices: Making a Difference

<http://www.niccy.org/professionals-practitioners-policymakers/participation/pupils-voices-pupil-participation-in-schools/>

National Children's Bureau's Participation Support Programme:

<https://www.ncb.org.uk/participation-support-programme>

## 5. Promoting Equality, Good Relations and Diversity

This chapter outlines the role of the Board of Governors of a grant-aided school in relation to the promotion of equality, good relations and diversity, having regard to Section 75 of the NI Act 1998 and Targeting Social Need. It highlights the need to address current inequalities in pupils' educational attainment and the relevance of the Department's Transfer policy to raising standards for all children.

### The Role of the Board of Governors

The role of the Board of Governors is to promote equality, good relations and diversity and to comply with education and employment legislation and anti-discrimination, human rights and equality legislation that affect its statutory duties in relation to the school.

### What is Promoting Equality, Good Relations and Diversity?

5.1. The concept of equality, good relations and diversity, concerns itself with ensuring that people are not excluded by others from participating in the activities of society, such as education and employment, because of certain characteristics that make up their identity. Good relations is about promoting **respect, equity and trust, and embracing diversity** in all its forms. In many ways, equality focuses on ensuring that individuals are not discriminated against by others. Equality works towards removing barriers to participation, and taking positive steps to promote equality. Effectively promoting equality has two aspects. It involves:

- **Preventing discrimination** against people because of certain characteristics that make up their identity, such as their sex, race, age, marital status, disability, religious beliefs, political opinions, dependants and sexual orientation as set out in Section 75 of the NI Act 1998
- **Taking proactive measures** to promote equality for all

### Inequalities in Education

5.2 A high priority for the education sector is the need to address widespread and indefensible inequalities in pupils' educational attainment. The school system here does have its strengths, enabling many young people to fulfil their potential. However, far too many Year 7 pupils transfer to post-primary education with inadequate skills in literacy and numeracy and too many young people leave school without having achieved the key benchmark of 5+ GCSEs (or equivalent) at grades A\* to C (including English and mathematics), the level needed to progress to higher education and employment.

5.3 Progress in raising standards is being made. However, evidence suggests that performance could be much improved across the sector. There is too high a level of underachievement and too wide a variation in standards (including between schools facing similar circumstances). For example, school leavers from the most advantaged

backgrounds were twice as likely to achieve the level accepted for higher education and employment, compared to those from the most disadvantaged backgrounds. Much remains to be done, not least to improve education provision that is not good enough; to further improve educational outcomes for all; and to tackle the unacceptable level of underachievement and variation in standards that continue to exist.

5.4 The Equality Commission has published 'A Statement on Key Inequalities in NI' and 'Every Child an Equal Child' which sets out a number of priority groups that have either displayed consistent educational underachievement or for which there was insufficient information to make that assessment, namely:

- Protestant working class boys
- Children and young people from the Irish Traveller community
- Gay, Lesbian and bisexual children and young people
- Looked after children and young people
- Children and young people from minority ethnic backgrounds
- Young people with caring responsibilities for parents/others
- Children and young people with disabilities
- Children and young people of new residents and migrant workers

5.5 Underachievement is a complex issue and there are often a number of connected reasons why some pupils do not achieve as highly as they should. They may face a particular barrier to learning, such as having a special or additional educational need, coping with personal or emotional problems, not having language in common with the teacher, a lack of parental involvement in their education, or coming from a background of high disadvantage or where the value placed on education is not as high as it should be.

## **The Role of DE**

5.6 The Department has a priority to tackle underachievement and to promote equality and the raising of standards in all schools. International research evidence confirms the correlation, evident in the performance data, between social disadvantage and poor education outcomes. In addition, data shows that young people living in urban areas achieve less highly than those living in rural areas. DE uses Free School Meals Entitlement as a measure for social disadvantage.

5.7 Inspection evidence from schools here, and wider research, shows that disadvantage is not an insurmountable obstacle and nor should it be an excuse for underachievement. Schools can, and do, make a difference through promoting high aspirations of achievement and demonstrating effectively the characteristics of good schooling (identified as child-centred provision, effective leadership, high quality teaching and learning, and strong links with the community). These are central to the Department's policy approach and are features which need to become successfully embedded in all schools to enable every young person to fulfil their potential.

5.8. DE is committed to promoting equality for all children and young people throughout their time at school. The Department has a vision for the education sector which is to see:

“Every young person achieving to his or her full potential at each stage of his or her development”

‘Every School A Good School – A policy for School Improvement’ lists as an indicator of effective school performance “A clear commitment ... to promoting equality of opportunity, high quality learning, a concern for individual pupils and a respect for diversity”.

5.9 Promoting equality, good relations and diversity is at the heart of DE education policies. The education policies to promote these aims include:

- Sharing Works – a policy for Shared Education (para 3.10 -3.17 refer)
- Community Relations Equality and Diversity Policy
- Policy on Transfer from Primary to Post-primary Education
- Early Years Strategy
- Establishment of the Education Authority
- Every School a Good School – A Policy for School Improvement

<https://www.education-ni.gov.uk/publications/every-school-good-school-policy-school-improvement>

- Count, Read: Succeed – A Strategy to improve Outcomes in Literacy and Numeracy

<https://www.education-ni.gov.uk/publications/count-read-succeed-strategy-improve-outcomes-literacy-and-numeracy>

- Every School A Good School: Supporting Newcomer Pupils and Newcomer Guidelines for Schools

<https://www.education-ni.gov.uk/sites/default/files/publications/de/newcomer-policy.pdf>

<https://www.education-ni.gov.uk/sites/default/files/publications/de/newcomer-guidelines-for-schools.pdf>

- Every School a Good School: the Way Forward for Special Educational Needs and Inclusion
- Expansion of the Independent Counselling Service
- Review of Irish Medium Education
- Schools for the Future : A Policy for Sustainable Schools
- School Circular on ‘The Education of Children and Young People from the Traveller Community <https://www.education-ni.gov.uk/sites/default/files/publications/de/circular-2010-15-traveller-education.pdf>

Other important policies include 'Equal Opportunities for Teachers in Schools'  
<https://www.education-ni.gov.uk/publications/tnc-200902-equal-opportunities-policy-teachers-schools>

DE has a duty to ensure that all schools comply with its policies and procedures.

## **The Role of the Board of Governors**

5.10. 'Promoting equality, good relations and diversity' are important issues for schools, parents and local communities. School Boards of Governors as well as Principals and teachers have responsibilities to promote these issues in schools and the wider community. These responsibilities are driven by DE education policies, education and employment legislation and anti-discrimination, human rights and equality legislation.

5.11. There is a need for a consistent approach by schools to promoting equality, good relations and diversity. Effective leadership by the Board of Governors will have a positive influence on the school and the wider community. The Board of Governors should consider how the school's own policies, practices and procedures affect people in the school community particularly staff, parents and pupils.

5.12. The ethos, policies and practices of a school – and particularly their implementation – need to collectively and consistently value all young people, particularly those from minority communities and backgrounds. Education for all children and young people should be provided in an inclusive environment that is nurtured within the whole community. This environment should:

- be positively welcoming to all, whatever their identity
- provide equality for all and foster good relationships
- be understanding of the way of life and cultures of different families
- value the contribution of a diversity of cultures
- ensure every learner fulfils their potential
- recognise and encourage parents as primary educators

5.13. The promotion of good working relationships including support and encouragement for staff and opportunities for staff development are conducive to the effective operation of the school and whole school improvement. The ethos of the school should take account of the requirement to promote a good and harmonious working environment in which:

- all persons are treated with dignity and respect
- no person is subjected to harassment by conduct that is related to religious belief; political opinion; sex; gender reassignment; race; age; sexual orientation; disability; being married or being in a civil partnership

5.14. The Education and Training Inspectorate (ETI) guidance 'Together toward Improvement' is available on the DE website at <https://www.etini.gov.uk/content/together-towards-improvement>. Many ETI school performance indicators underpin the main aims of the equality legislation and evaluate

how schools promote good relationships. These aims are also embedded in professional training programmes for teachers and Principals. The General Teaching Council (GTCNI) includes in its core values equality, inclusion, trust and respect.

5.15. The statutory functions of school Boards of Governors that contribute to the promotion of equality, good relations and diversity are set out below.

### **Raising Education Standards in Schools (Chapter 6)**

Article 11 of the 1998 Education Order makes provision for setting pupil performance targets in schools and the School Development Plan provides Boards of Governors with a framework for setting and achieving strategic education goals through effective resource management.

### **The Curriculum (Chapter 7)**

The curriculum introduced a statutory duty under the 2006 Education Order to offer every young person better opportunities to succeed at school and to progress to further or higher education and employment. It provides scope for young people to learn about equality and human rights issues through Citizenship education, a compulsory subject, and the prescribed areas of learning.

The Board of Governors in consultation with the Principal can consider how equality and human rights issues should be accommodated within its curriculum policy statement, based on a whole school approach and an inclusive school culture. The Entitlement Framework within the curriculum is designed to offer greater breadth and balance in the courses and pathways available to young people and to give every pupil a fair and equal chance to progress to further and higher education, training and employment.

### **School Staff (Chapter 9)**

All employers in Northern Ireland are obliged to comply with a large body of law that prohibits unlawful discrimination and harassment and which promotes equality of opportunity in employment. Accordingly, the Board of Governors must endeavour to ensure that the employment policies, practices and procedures which they apply do not give rise to unlawful discrimination and harassment.

Chapter 9 provides a list of anti-discrimination statutory codes and guidance documents, the contents and status of which are of fundamental importance for anyone dealing with human resources issues. The statutory codes do not impose legal obligations on employers; however, an industrial tribunal must take into account any provisions of the codes which are relevant to any question arising in proceedings before the tribunal.

### **Pupil Admissions (Chapter 10)**

The Department's policy on the arrangements for the transfer of pupils from primary to post primary and the support for academic selection has the potential to enable social mobility and gives every child an opportunity of gaining access to the most appropriate school to meet their needs and enhance their life chances.



### **Pupil Behaviour and Discipline (Chapter 15)**

Under Articles 3 and 17 of the Education (NI) Order 1998, the Board of Governors has a duty to have a written statement of general principles about pupil behaviour and to ensure that the school's policies promote good behaviour and respect for others on the part of pupils, and, in particular prevent all forms of bullying among pupils. Good discipline is essential to ensure the safety and wellbeing of pupils at school and to foster their individual learning and development.

### **Promoting the Use of the School in the Community (Chapter 21)**

The Boards of Governors has a role in promoting the use of the school in the local community. Schools are increasingly taking on a greater leadership role in the communities that they serve. Schools are an ideal resource to lead communities to improve good relations issues.

## **Eliminating Unlawful Discrimination and Harassment**

5.18. The Board of Governors should also be aware of the anti-discrimination laws in the Northern Ireland which prohibit discrimination and harassment in employment on the grounds of sex; pregnancy and maternity leave; religious belief and political opinion; race; sexual orientation and age. The laws also prohibit discrimination and harassment against people who are disabled; people who are married or who are in civil partnerships; and, people who have undergone, are undergoing or who intend to undergo gender reassignment. These anti-discrimination grounds are commonly known as the statutory equality grounds.

5.17. The anti-discrimination laws are the:

- Disability Discrimination Act 1995
- Employment Equality (Sexual Orientation) Regulations (NI) 2003
- Employment Equality (Age) Regulations (NI) 2006
- Equal Pay Act (NI) 1970
- Equality Act (Sexual Orientation) Regulations (NI) 2006
- Fair Employment and Treatment (NI) Order 1998 (FETO)
- Race Relations (NI) Order 1997
- Sex Discrimination (NI) Order 1976
- Special Educational Needs and Disability (NI) Order 2005 (SENDO)

5.18. The laws use terms such as direct discrimination; indirect discrimination disability-related discrimination; failure to comply with a duty to make reasonable adjustments (i.e. another form of discrimination against disabled people); victimization and harassment to describe the different types of discriminatory conduct which are prohibited. The legislation can be accessed at [www.opsi.gov.uk](http://www.opsi.gov.uk) or through the link provided on the Equality Commission's website [www.equalityni.org](http://www.equalityni.org).

## **The Law (for further reference)**

**The Disability Discrimination Act 1995 (DDA)** and the **Special Educational Needs and Disability (NI) Order 2005 (SENDO)** are the laws that prohibit disability discrimination against disabled persons (adults and children) in relation to employment and the provision of goods, facilities and services (including educational provision). SENDO also strengthens the rights of children with special educational needs to be educated in mainstream schools.

**Employment Rights (NI) Order 1996** – this statute is the principal employment rights law in Northern Ireland. It regulates the entire employment relationship and provides employees with a substantial number of employment rights, including the right not to be unfairly dismissed.

**The Sex Discrimination (NI) Order 1976 (SDO)** and the **Equal Pay Act (NI) 1970** prohibit sex discrimination against men and women on the grounds of their sex in relation to employment (e.g. recruitment, terms and conditions, pay, dismissals). The SDO also prohibits sex discrimination in relation to the provision of goods, facilities and services (including educational provision). Furthermore, the SDO prohibits discrimination on the grounds of pregnancy and maternity, marital status and civil partnership status and gender reassignment.

**The Employment Equality (Sexual Orientation) Regulations (NI) 2003** make it unlawful for employers and others to discriminate on grounds of sexual orientation in employment, vocational training and further and higher education. **The Equality Act (Sexual Orientation) Regulations (NI) 2006** extend this protection against discrimination to the provision of goods, facilities and services, the management and disposal of land or premises and the provision of education in schools.

**The Employment Equality (Age) Regulations (NI) 2006** makes it unlawful for employers and others to discriminate on grounds of age in the areas of employment, vocational training and further and higher education.

**The Fair Employment and Treatment (NI) Order 1998 (FETO)** as amended prohibits discrimination and harassment on the grounds of religious belief and political opinion. It applies to all employers and employees and all types of employment, including school teaching. Thus, it is unlawful to discriminate against a person who is employed as a school teacher in respect to the terms and conditions of their employment, in their access to opportunities for training or access to other work-related benefits, or by dismissing them or subjecting them to any other detriment. Furthermore, it is unlawful to subject a person employed as a school teacher to sectarian harassment. However, there is also an exception: by virtue of Article 71 of the FETO, it is not unlawful for the employers of school teachers to discriminate on the grounds of religious belief or political opinion in relation to the recruitment of persons as teachers in schools.

**The Human Rights Act 1998** requires public bodies including schools to act in a manner that is compatible with human rights. If this does not occur, a person who is negatively affected can complain to the court that their rights have been breached.

**Immigration, Asylum and Nationality Act 2006** addresses the conditions which will apply to persons before they come to the United Kingdom; to affect the way in which

persons are dealt with at ports when arriving in the United Kingdom; to affect how they are dealt with once they are here.

**The NI Act 1998: Section 75** places obligations on a public authority when carrying out its functions to have due regard to the need to promote equality of opportunity across 9 categories and the desirability of promoting good relations across 3 categories.

A public authority must have a scheme approved by the Equality Commission showing how it proposes to fulfil the duties imposed by Section 75. DE, the EA, CCMS and successor bodies are obliged to comply with Section 75, as they are designated public authorities. These designated public authorities have a duty to ensure that all schools comply with their policies and procedures.

Schools are not designated public authorities<sup>2</sup> for the purposes of this Act but they are expected to operate in line with the principles of the equality schemes of designated public authorities. The promotion of equality of opportunity and good relations are therefore key to the work of a school.

The duties imposed by Section 75 and Section 49A require more than the avoidance of discrimination. They require a public authority to seriously consider how it can promote equality of opportunity, good relations, positive attitudes towards disabled people and their participation in public life. The Guidance document by the Equality Commission contains additional information.

**The Race Relations (NI) Order 1997** outlaws discrimination on the grounds of colour, race, nationality or ethnic or national origin. The Irish traveller community is specifically identified as a racial group which is protected against unlawful racial discrimination. It is also unlawful to discriminate in the fields of employment, education, the disposal and management of premises, and the provision of goods, facilities and services. Segregation on racial grounds constitutes discrimination.

## Guidance

A Guide for education establishments on the implications of the sexual orientation Regulations on the provision of goods, facilities, services and premises – Eliminating Sexual Orientation Discrimination.

[www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Sexual\\_Orientation-Education\\_Guide.pdf](http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Sexual_Orientation-Education_Guide.pdf)

A Guide for School management to the Human Rights Act 1998

[www.nihrc.org/uploads/guide-to-human-rights-act-for-school-management-2003.pdf](http://www.nihrc.org/uploads/guide-to-human-rights-act-for-school-management-2003.pdf)

‘A Statement on Key Inequalities’ by the Equality Commission

[www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/S75%20P10%20investigation%20reports/KeyinequalitiesinNI2007.pdf](http://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/S75%20P10%20investigation%20reports/KeyinequalitiesinNI2007.pdf)

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<sup>2</sup> The Department of Education, the Education Authority and CCMS are obliged to comply with Section 75 of the NI Act 1998, as they are designated public authorities. This imposes a statutory obligation on a designated public authority in carrying out its functions to have due regard to the need to promote equality of opportunity between persons across nine equality grounds. A designated public authority must also have regard to the desirability of promoting good relations between persons across these groups.

Disability Discrimination Code of Practice – rights of access goods, facilities, services and premises

[www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/DDACodeofPracticeGFS2003.pdf](http://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/DDACodeofPracticeGFS2003.pdf)

‘Every Child an Equal Child’, An Equality Commission Statement on key Inequalities in Education and a Strategy for Intervention (2008)

[www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Keyinequalityesineducation2008.pdf](http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Keyinequalityesineducation2008.pdf)

Section 75 of the Northern Ireland Act 1998: Guide to Statutory Duties (*obligations placed on public authorities*)

[www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/S75GuideforPublicAuthoritiesApril2010.pdf](http://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/S75GuideforPublicAuthoritiesApril2010.pdf)

### **Curriculum Materials**

Resource material based on the fundamental principles of Human Rights, as outlined in the Universal Declaration of Human Rights and the UN Convention on the Rights of the Child, has been made available to primary schools.

‘The Bill of Rights in Schools: A Resource for Post-primary Schools’ is a comprehensive guide in English and in Irish for teachers in exploring human rights issues as part of the post-primary curriculum. There is also a new publication, Making Human Rights Real ‘A resource for teaching KS4 (Key Stage 4) citizenship for the Learning for Life and Work Curriculum in NI’. It has been produced by Amnesty International in association with the Human Rights Commission.

## 6. Education Standards

This chapter describes the role and responsibilities of the Board of Governors in relation to educational standards in the school. It also explains the role of the Education and Training Inspectorate (ETI) and the Department of Education (DE) in relation to raising education standards across all schools.

### The Role of the Board of Governors

The strategic role of the Board of Governors of a grant-aided school is to fulfil its functions in relation to the school with a view to promoting the achievement of high standards of educational attainment. The vision and aims set for the school, the school ethos, and the plans and policies agreed for the school all have the potential to contribute to the raising of education standards. In addition, the Board of Governors should work with the school Principal in monitoring and evaluating the school's performance and to promote self-evaluation as a means to achieve school improvement.

6.1. The role of the Board of Governors is to help the school Principal and staff, provide the best possible education for all the pupils. It requires strong and effective governance within schools to help maintain and improve standards.

6.2. In terms of the specific role for the Board of Governors in relation to school improvement, it has the responsibility for ensuring that the Principal and the staff put in place all the necessary arrangements and mechanisms to help pupils succeed and to achieve their full potential. While DE and the Education Authority (EA) are accountable for overall standards, it is the school and its Board of Governors that is accountable for the standards achieved by its own registered pupils. These are some of the measures which governors can take in fulfilling this role:

- acquire an in-depth knowledge of the school, its Principal and senior management team, its staff and standards achieved by the pupils
- become part of a strong and effective leadership team of the school (chapter 3)
- promote strong links with parents, families and the community (chapter 3 and chapter 21)
- ensure the school provides effective teaching and learning in the context of the curriculum (chapter 7)
- monitor the school's performance and address under performance at the earliest opportunity (see paragraphs 3 to 5 below)
- promote the effective use of data to support target setting (at pupil, class and whole-school level) and assessment for learning (see paragraphs 6 to 9 below)
- promote regular and robust self-evaluation (see paragraphs 10 to 11 below)
- promote effective school development planning (see paragraphs 12 to 18 below)

## **Monitoring School Performance and Addressing Underperformance**

6.3. There are many useful ways of measuring performance which take account of the school's circumstances and seek to measure the value added dimension. The governors, working with the Principal, must decide which key indicators they wish to monitor and make arrangements for the Principal to provide the appropriate data at suitable times. The Department will provide the governors with bespoke data on an annual basis along with benchmarking and target-setting guidance to help inform the monitoring process.

6.4. The following indicators can be used in determining school performance and highlighting areas for improvement:

- curriculum assessments, including end of key stage assessments, tests and/or public examination results
- performance in literacy and numeracy outcomes
- performance of pupils entitled to free school meals
- breadth and coherence of curriculum offer (at post-primary)
- pupil attendance
- suspensions and expulsions
- pupil involvement in extra-curricular activities
- number of applications for admission
- destination of school leavers
- staff attendance

ETI Inspection Reports should also be taken into account. Indicators which are harder to quantify, but which may be assessed through judgemental evidence or small surveys/questionnaires include:

- pupil behaviour and attitudes
- staff morale and commitment
- the views and involvement of parents and the community

6.5. In addition to monitoring the effectiveness of the school as a whole, the Board of Governors should satisfy itself that all parts of the school are contributing to its overall effectiveness. It may also find it helpful, on the basis of available information, to compare aspects of the performance of its own school against those of other schools in similar circumstances. Having monitored the school's performance, the Board of Governors should liaise with the Principal and staff in developing appropriate actions to move the school forward towards improvement. This process of evaluation and planning for improvement is central to school development planning.

## **Promoting the Effective Use of Data to support Target Setting and Assessment for Learning**

6.6. The effective use of data, for the purpose of monitoring and evaluating performance and setting targets for future development, is an important element in determining whether a school is doing well, or not doing well enough. The Board of Governors, again, has an important role in this area.

6.7. The effective use of data enables schools to:

- track progress of individual pupils, classes and year groups
- identify where gaps in performance exist (socio-economic background, boys and girls, between and within subject departments (post-primary schools))
- monitor and evaluate to inform development planning – from identifying priorities to demonstrating success of actions taken, to target-setting and benchmarking
- hold teachers and departments accountable for performance
- inform more effective allocation of staff and resources

6.8. All schools are provided annually with benchmarking data to enable them to compare their performance in assessments and in public examinations with schools with similar characteristics, e.g. the socio-economic background of their pupils, as measured by entitlement to free school meals. Schools are encouraged to use the full range of information available to them; this will include, but is not restricted to, information about pupil attainment. This could include data held within the school (including whatever standardised test results, if any, the school uses), the data packs provided by DE, DE's statistical bulletins and information provided by the EA.

6.9. This data should be interrogated effectively by the Board of Governors and the Principal and senior management should be held to account for the school's performance. The Board of Governors need to be pro-active in seeking this information from the school management, along with a range of analyses that enable them to understand how the school is performing. The targets for improvement identified in the school development plan, for which the Board of Governors also has responsibility, should be based firmly on the analysis of this data.

6.10. Schools are required by legislation to set their own targets for improvement, including targets for literacy and numeracy, and include these in the School Development Plan. It is up to individual schools to set their own realistic but challenging targets, based on their current performance trends and plans for improvement. When setting targets, schools will wish to take into account a range of factors, including:

- trends in performance by the school over previous years
- the prior attainment of each year group
- the context within which the school is operating and how it compares to schools in similar circumstances
- the priorities set in the School Development Plan
- the performance of pupils entitled free school meals

## **Promoting Regular and Robust Self-Evaluation to Sustain School Improvement**

6.11. School improvement is most likely to be sustained when a school establishes a positive culture, an ethos of aspiration and a commitment to professional growth. Self-evaluation is a process through which an individual teacher, groups of staff, the staff as a whole and senior management reflect on their current practice, identify and celebrate the strengths of the school and identify and address areas for improvement in their work.

6.12. The process involves monitoring and evaluating the effectiveness of existing education provision and the pupils' achievements as described above. It recognises the need for the staff and governors to have a clear and agreed view of the school's current stage of development. Through school development planning, it helps to identify priorities which will have a positive effect on learning. It informs and influences classroom practice and the quality of learning and teaching, and promotes development and improvement. It requires the staff to evaluate their work critically, reflect on the extent to which expectations are being realised in the work of the school, and to establish a clear vision and future direction for the school.

## **School Development Planning**

### **Promoting School Development Planning to sustain School Improvement**

6.13. The School Development Plan provides the strategic framework within which the governors, the Principal and the staff can monitor, evaluate and improve the nature of the school's curricular and other provision and the standards achieved by pupils, making effective use of all the school's available resources.

### **Responsibilities of the Board of Governors**

6.14. The Board of Governors of each grant-aided school is required to:

- prepare, maintain and review on a regular basis the 3 year School Development Plan in consultation with the Principal and having regard to guidance given by the Department and the EA. The plan has to be revised no later than 3 years from the date of the last plan and no later than 6 months from the date of publication of the report of an inspection of the school
- ensure that each governor, the principal and each staff member has a copy of the plan
- submit a copy of the plan to the EA and to CCMS in the case of Catholic Maintained schools
- ensure that a copy of the plan is available on request and free of charge at all reasonable times to any person

6.15. The preparation of the plan or a draft of the plan may be delegated to the Principal, but the plan must be formally approved by the school Board of Governors. Boards of Governors can take a much more active role in formulating the plan and are encouraged to do so. It is the responsibility of the governors to ensure that all the necessary arrangements and mechanisms are in place to help pupils succeed and to achieve their full potential.



## **Purpose**

6.16. The School Development Plan is a document for use by the school. It is essentially a tool to help the staff to promote school effectiveness; improve the quality of learning and teaching; improve the educational experience of the pupils; and to raise the standards which pupils attain. It is based on the school's analysis of current levels of performance and its assessment of how current trends and future factors may impact on the school. It should set out priorities and targets for improvement for the period ahead.

## **Content**

6.17. The matters to be included in a School Development Plan are set out in the schedule to The Education (School Development Plans) Regulations (NI) 2010. These regulations came into operation on 24 January 2011. The 2010 regulations aim to ensure a greater emphasis on raising standards and minimising the burden for schools. Further information is provided in [DE Circular 2010/22](#).

6.18. The overall aim of the regulations is to continue to promote effective development planning to bring about improvement in standards. The Department wants to ensure that:

- the focus of school development planning is on raising standards
- planning for improvement is supported by planning for the effective use of financial and other resources
- the process of self-evaluation and development planning is manageable and provides flexibility for schools to determine their own priorities

## **Guidance and Support**

6.19. Guidance is listed at the end of this chapter to assist school Boards of Governors to take forward the process of school development planning and target setting in primary and post-primary schools. Guidance includes the DE publication 'Every School a Good School – School Development Planning 2010. Advice and training for governors on school development planning is available from the EA. Boards of Governors will find it useful to draw on the wider experience of EA officers and to attend guidance/awareness events organised by the EA.

## **The Role of ETI**

6.20. The Education and Training Inspectorate (ETI) is a professional organisation within the Department of Education that provides independent professional advice at the point of inspection on education provision, standards and leadership in schools. It also inspects and visits all schools regularly.

## **Education Standards in Schools**

6.21. In the 2014-16 report the Chief Inspector stated that 'we have many schools and providers that demonstrate excellence with a high level of capacity or capacity to

identify and bring about improvement<sup>3</sup>. There are many exceptional leaders and teachers/lecturers/trainers that put the learners needs and their success above all else. But this is not universally, nor even consistently, evident.' During the reporting period 2014-16, 79% of all organisations inspected demonstrated a high level of capacity or capacity to identify and bring about improvement. However 21% of organisations inspected had important areas for improvement or needed to address urgently the significant areas for improvement.

6.22. Too many pupils still receive an education that is not good enough, particularly those from socially disadvantaged backgrounds. A relentless focus on promoting attendance helps to raise standards and improve the life chances of the learners, especially those from disadvantaged backgrounds. While more pupils are achieving well, the attainment gap between those entitled to free school meals and those not, remains a challenge. At 66%, the proportion of school leavers achieving at least five GCSEs at grades A\* to C, or equivalent, including GCSE English and mathematics, has increased by 2.5 percentage points since 2013-14 (63.5%). In 2014-15, 40.3% of boys leaving non-grammar schools achieved at least five GCSEs at grades A\* to C including GCSE English and mathematics compared to 50.7% of girls.

6.23. In 48% of primary schools inspected, governors were not always well enough informed about the statutory levels of progression in communication and using mathematics, and the teachers' use of internal data to establish baselines for evaluating attainment, and therefore could not fully support leadership in raising the standards. In 45% of post-primary schools inspected, governors needed to be able to measure the extent to which the pupils' learning is progressing, be better informed about the effectiveness of their senior and middle managers, and exercise their challenge function more proactively, where needed. In 24% of pre-school settings and primary schools and almost one in five post-primary schools inspected, the arrangements for safeguarding the pupils are not comprehensive and do not reflect adequately the guidance issued by the relevant Departments. It is imperative that schools and governors recognise that they are ultimately responsible for securing the safety of children in their care. Being unaware of what is expected for securing high quality safeguarding is no defence and presents significant and unacceptable risks to children and young people.

## **The School Inspection Process**

6.24. The School Inspection Process is an external evaluation by the ETI of the quality of the education or training provided for registered pupils in individual schools and the outcomes that they achieve. All schools are scheduled for inspection on a risk-based basis. Also, the ETI will consider a request from a Board of Governors for an inspection to assist the governors to take forward school improvement.

6.25. The Reporting Inspector will arrange to meet the Chair or representative of the Board of Governors during the inspection. This meeting provides the opportunity for the ETI to hear the views of the Board of Governors about the school. The procedure for this meeting is set out in the school's scheme of management. A Leaflet "Information

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<sup>3</sup> *The ETI descriptors for performance levels and the number of overall effectiveness conclusions changed in September 2015*

for Governors” about the school inspection process can be accessed on the ETI website: <http://tinyurl.com/Info-Governors-Schools>. See also paragraph 3.8 referring to the ETI resources relating to school self-evaluation and improvement for school leaders and for school governors.

6.26. In making evaluations during the inspection process, the Inspection Team considers the circumstances of the school, the age and needs of the pupils set against published criteria in a series of documents entitled ‘Inspection and Self-Evaluation Framework’ which are available on [www.etini.gov.uk](http://www.etini.gov.uk). The criteria focus on:

- Outcomes for Learners
- The Quality of Provision
- Leadership and Management

6.27. An inspection will tell the Board of Governors and others how well:

- The children are progressing in their learning
- The school is helping them to learn and develop
- The school is attending to the children’s care, welfare and safety

6.28. The Reporting Inspector will report back the findings of the inspection team at a meeting with representatives of the school. At this meeting the ETI will indicate the extent of improvement required. The Board of Governors will receive a copy of the final inspection report and if there are important areas for improvement, the governors will be required to prepare a response within specific deadlines and a follow-up inspection will take place. Additional information is available in the ETI publication entitled “What Happens After an Inspection” on the ETI website <https://www.etini.gov.uk/articles/what-happens-after-inspection>

6.29. The Board of Governors is required to ensure that parents of its registered pupils are provided with the opportunity to read the report of the latest inspection of the school. The school and its governors will be notified by ETI when a report of a recent inspection is placed on the ETI website. On receipt of this notification, the governors should ensure that parents receive details of the web-link to the report, which will be included in the letter of notification to the school. In addition, information should be on the school notice board of when and where parents will have the opportunity to read a paper copy of the ETI report, should they wish to do so.

## **The Role of DE**

6.30. The role of DE is to set strategic aims for the education service and to develop policies and proposals for legislation that will make provision for these aims to be achieved. , DE’s vision of the future is of an education system that is recognised internationally for the quality of its teaching and learning and for the achievements of its young people and of an education service that has at its centre a focus on the needs of children and young people.

6.31. When formulating education policies, the DE has regard to ETI reports, national and international education standards, national and international legislation on human

rights and equality as well as the needs and expectation of employers and local, national and international economic considerations.

6.32 International comparisons through the OECD's Programme for International Student Assessment (PISA), have shown that the education system here has one of the most significant gaps between the highest and lowest performing pupils of all the participating countries. The Department's policies that seek to close the attainment gap include:

- Every School a Good School – our school improvement policy
- Count, read :succeed – the literacy and numeracy strategy;
- The Statutory Curriculum
- The Learning to Learn Framework
- Learning Leaders: A Strategy for Teacher Professional Learning

### **School Improvement Policy**

6.33. 'Every School a Good School (ESaGS) – a policy for school improvement' is based on the premise that every school is capable of improvement. The vision of the policy is 'of schools as vibrant, self-improving, well governed and effectively led communities of good practice, focusing not on institutions but on meeting the needs and aspirations of all pupils through high quality learning, recognising the centrality of the teacher.' The policy sets out the characteristics of a successful school:

- child centred provision
- high quality teaching and learning
- effective leadership
- a school connected to its local community

6.34 The policy clearly recognises the importance of strong and effective governance and leadership within schools in helping to maintain and improve standards. The policy is centred on the following six key areas:

- effective leadership and an ethos of aspiration and high achievement
- high quality teaching and learning
- tackling the barriers to learning that many young people face
- embedding a culture of self-evaluation and self-assessment and of using performance and other information to effect improvement
- focusing clearly on support to help schools improve – with clarity too about the place of more formal interventions where there is a risk that the quality of education offered in a school is not as high as it should be
- increasing engagement between schools, parents and families, recognising the powerful influence they and local communities exercise on educational outcomes

6.35. There will be a clear focus on high-quality support to help schools improve. In cases where there is evidence through inspection that pupils are not receiving a high-

quality education there will be a need for more formal intervention (set out in Annex C of the ESaGS policy document – revised August 2015).

6.36. DE is supported in implementing the ESaGS policy by the EA, CCMS, CCEA and the ETI. The ESaGS policy document is available via the Department's website. Schools and their Boards of Governors should reflect on the policy, and consider how, with support from the education support bodies, they might give effect to its vision as they plan for improvement.

<https://www.education-ni.gov.uk/publications/every-school-good-school-policy-school-improvement>

### **Literacy and Numeracy Strategy**

6.37. Raising standards in literacy, numeracy, and tackling underachievement, is a key priority for DE. '*Count, read: succeed*', DE's literacy and numeracy strategy, was launched in March 2011. DE has developed a revised literacy and numeracy strategy, which supports the emphasis on literacy and numeracy in the curriculum.

6.38. This strategy aims to ensure that all young people leave school having achieved the appropriate standards in literacy and numeracy, by focusing on raising standards of achievement for all pupils and narrowing the gaps between the highest and lowest achievers and the most and least disadvantaged.

6.39. The strategy is based on existing good practice in schools and the starting point is high quality classroom teaching of literacy and numeracy for all pupils. Key elements include early identification and support if a child is having difficulties with literacy and/or numeracy; encouraging greater parental involvement in their child's education and a greater emphasis on the effective use of data in supporting teaching and learning. The strategy takes account of the specific needs of the Irish-medium sector. Chapter 6 of '*Count, read: succeed*' provides a synopsis of the advice provided by the working group on Literacy and Numeracy in Irish-medium Education which informed the strategy. The strategy is available on the Department's website:

[Count, Read: Succeed - A Strategy to Improve Outcomes in Literacy and Numeracy](#)

6.40. The Education and Training Inspectorate (ETI) has published a number of documents identifying good and innovative practice relating to the teaching and learning of literacy and numeracy. These can be found on the ETI website:

<https://www.etini.gov.uk/publications/best-practice-guidelines-literacy-provision-post-primary-level-and-best-practice>

### **The Law**

**Primary** Legislation - Education Order 1998 – Articles 11(1) and 13(3)

**Subordinate Legislation** - The Education (School Development Plans) Regulations (NI) 2010 (*came into operation on 24 January 2011*)

The Education (Target-Setting in Schools) Regulations (NI) 1998

## Guidance

'Every School A Good School' (*DE Policy Document*) <https://www.education-ni.gov.uk/publications/every-school-good-school-policy-school-improvement>

Every School a Good School – School Development Planning 2010 (*DE publication*) <https://www.education-ni.gov.uk/publications/every-school-good-school-school-development-planning-guidance>

DE Circular 2010/22: School Development Planning – Regulations and Guidance <https://www.education-ni.gov.uk/publications/circular-201022-school-development-planning-regulations-and-guidance>

Count, Read: Succeed – A Strategy to improve Outcomes in Literacy and Numeracy <https://www.education-ni.gov.uk/publications/count-read-succeed-strategy-improve-outcomes-literacy-and-numeracy>

'Target Setting: guidance for Primary Schools' <https://www.education-ni.gov.uk/sites/default/files/publications/education/School-Development-Planning-and-Target-Setting-Primary-Circular-201706.pdf>

'Target Setting: Guidance for Post-primary Schools'

DE Circular 2017/08 School Development Planning and Target Setting (Post Primary) <https://www.education-ni.gov.uk/sites/default/files/publications/education/DE%20Circular%2008of2017%20School%20Development%20Planning%20and%20Target%20Setting%20Post%20Primary%20Circular%20Final.pdf>

Chief Inspector's Report 2014 -2016 <https://www.etini.gov.uk/sites/etini.gov.uk/files/publications/CIR%20Report%20November%202016.pdf>

A Joint Report by the ETI and DES Inspectorate on Promoting and Improving Literacy in Post-Primary Schools (April 2015) <https://www.etini.gov.uk/publications/joint-report-by-eti-and-des-how-best-promote-and-improve-literacy-and-numeracy-our>

A Second Report on the Follow Up to Better Mathematics: A report on Post-Primary Mathematics Provision 2010-2014 (October 2014) <https://www.etini.gov.uk/publications/second-report-follow-better-mathematics-report-post-primary-mathematics-provision-2010-14>

Information to help school governors in implementing a rigorous and effective self-evaluation process as part of their own quality assurance arrangements: <https://www.etini.gov.uk/publications/school-governance>

The Reflective Teacher - <https://www.etini.gov.uk/publications/reflective-teacher>

Inspection and Self-evaluation Framework - <http://tinyurl.com/ISEF-Page>

ETI Survey / Evaluation reports represent the findings from inspections and incidental visits to schools across all districts. Particular surveys / evaluations are arranged to gain evidence on a specialist area of the curriculum or on matters of priority interest: <https://www.etini.gov.uk/publications/type/surveys>

ESaGS.tv was set up with the aim of supporting school improvement by sharing models of best practice - [www.esags.tv](http://www.esags.tv)

### ***Other Models for Self-Evaluation***

Investors in People (IiP)

Charter Mark

EFQM Excellence Model

Self-Evaluation through Attitude Questionnaire (SETAQ) Schoolcentre.net (via RTU site) on line

What Happens after Inspection (*published by the ETI*)  
<https://www.etini.gov.uk/articles/what-happens-after-inspection>

## 7. Northern Ireland Curriculum

This chapter describes the roles and responsibilities of the Board of Governors and the Principal in relation to the curriculum, assessment and reporting.

### **The Role of the Board of Governors**

The role of the Board of Governors and the Principal is to exercise their respective functions in relation to the school so as to ensure that the Northern Ireland curriculum:

- is effectively delivered as required by law
- is balanced and broadly based
- includes religious education and the minimum content for the areas of learning required by law
- meets the statutory requirements of the Entitlement Framework
- provides for pupils to be assessed as required by law
- arrangements are in place for handling complaints

The Board of Governors has to determine and keep under review its policy in relation to the curriculum; that policy must be compatible with the law and the school Board must have regard to that policy when carrying out its management functions in relation to the school.

7.1. The curriculum of the school has to be a balanced and broadly based curriculum which

- promotes the spiritual, emotional, moral, cultural, intellectual and physical development of pupils at the school and thereby of society
- prepares such pupils for the opportunities, responsibilities and experiences of life by equipping them with appropriate knowledge, understanding and skills

### **Whole Curriculum Aim and Objectives**

7.2. The Northern Ireland statutory curriculum is provided for in The Education (NI) Order 2006 and in the Education (Curriculum Minimum Content) Order (NI) 2007. The Northern Ireland curriculum is intended to better prepare young people for life and work and has a greater emphasis on skills as well as knowledge and understanding. It is more flexible than previously and gives schools scope to tailor their teaching to meet the needs of the pupils in their class.

### **Aim**

The Northern Ireland Curriculum and the Entitlement Framework aim to empower young people to achieve their potential and to make informed and responsible choices and decisions throughout their lives.



## Objectives

The learning opportunities provided through all stages of the Curriculum should enable teachers to help young people to develop as individuals, contributors to society and to the economy and the environment as shown below.

Individuals	Contributors to Society	Contributors to the Economy and Environment
<p><i>Personal and Mutual Understanding</i></p> <ul style="list-style-type: none"> <li>• develop self-confidence, self-esteem and self-discipline;</li> <li>• understand their own and others' feelings and emotions;</li> <li>• develop the ability to talk about how they feel;</li> <li>• develop their motivation to learn, and their individual creative potential;</li> <li>• listen to and interact positively with others;</li> <li>• explore and understand how others live;</li> </ul> <p><i>Personal Health</i></p> <ul style="list-style-type: none"> <li>• have an understanding of healthy eating and the importance of exercise;</li> <li>• develop positive attitudes towards an active and healthy lifestyle, relationships, personal growth and change;</li> <li>• become aware of key issues which affect their physical, social and mental well-being and that of others;</li> <li>• develop an awareness of their own personal safety;</li> </ul> <p><i>Moral Character</i></p> <ul style="list-style-type: none"> <li>• develop an awareness of right and wrong;</li> <li>• develop an awareness of how their actions can affect others;</li> <li>• understand that values, choices and decisions should be informed by a sense of fairness;</li> <li>• take responsibility for their actions;</li> <li>• develop tolerance and mutual respect for others;</li> </ul> <p><i>Spiritual Understanding</i></p> <ul style="list-style-type: none"> <li>• develop a sense of awe and wonder about the world around them.</li> </ul>	<p><i>Citizenship</i></p> <ul style="list-style-type: none"> <li>• become aware of some of their rights and responsibilities;</li> <li>• become aware of some of the issues and problems in society;</li> <li>• contribute to creating a better world for those around them;</li> </ul> <p><i>Cultural Understanding</i></p> <ul style="list-style-type: none"> <li>• develop an awareness and respect for: <ul style="list-style-type: none"> <li>□-the different lifestyles of others;</li> <li>□-similarities and differences in families and people in the wider community;</li> </ul> </li> <li>• understand some of their own and others' cultural traditions;</li> <li>• be aware of how we rely on each other;</li> </ul> <p><i>Media Awareness</i></p> <ul style="list-style-type: none"> <li>• be aware of, and use, information available to us through all sorts of media;</li> <li>• become aware of the potential impact of media in influencing our personal views, choices and decisions;</li> </ul> <p><i>Ethical Awareness</i></p> <ul style="list-style-type: none"> <li>• become aware of the imbalances in the world around us, at both a local and a global level;</li> <li>• become aware of the potential impact of developments upon the lives of others.</li> </ul>	<p><i>Employability</i></p> <ul style="list-style-type: none"> <li>• develop literacy, numeracy and ICT skills;</li> <li>• develop their aptitudes, abilities and creativity;</li> <li>• be willing to expand their learning and performance throughout their lives;</li> <li>• work independently, and as a member of a team,</li> <li>• developing perseverance, initiative and flexibility;</li> <li>• be willing to take calculated risks when appropriate;</li> <li>• use critical and creative thinking to solve problems and make decisions;</li> <li>• identify the main reasons why people set up their own business;</li> </ul> <p><i>Economic Awareness</i></p> <ul style="list-style-type: none"> <li>• learn to manage their money and build up savings;</li> <li>• interpret information in order to make informed choices as consumers;</li> <li>• develop an understanding of the importance of using resources carefully in the classroom;</li> <li>• develop an awareness of some environmental issues.</li> </ul> <p><i>Education for Sustainable Development</i></p> <ul style="list-style-type: none"> <li>• appreciate the environment and their role in maintaining and improving it;</li> <li>• understand how actions can affect the environment.</li> </ul> <p>Published by CCEA</p>

These objectives are supplemented by additional guidance produced by CCEA for teachers in delivering the Curriculum. The guidance sets out the statutory requirements for these objectives and includes Human Rights, Equality and Diversity themes as Key Concepts.

## The Education (Curriculum Minimum Content) (NI) Order 2007

7.3. In order to meet the requirements of the law, a school must provide learning opportunities in relation to **Religious Education** and **Areas of Learning**. The Board of Governors has to exercise its functions with a view to securing the following and the Principal has to ensure that:

- religious education is given in accordance with the provision for such education in the school's curriculum
- the minimum content of each Area of Learning is taught as required by the school's curriculum as subsisting at the beginning of that year
- access to the full range of courses specified under the Entitlement Framework is available to all pupils
- pupils are assessed as described later in this Chapter

### Religious Education

7.4. Religious Education must be in accordance with the core syllabus drafted by the four main Christian Churches in Northern Ireland and specified by DE. The core syllabus can be accessed via the curriculum and assessment pages of the website: <https://www.education-ni.gov.uk/publications/religious-education-core-syllabus>.

Religious Education has a significant role within the curriculum as it provides pupils with the opportunities to learn about, discuss, evaluate and learn from religious beliefs, practices and values by supplying opportunities to engage with challenging questions about:

- The meaning and purpose of life
- Our place in society and the world around us

This presents pupils with the chances to develop their personal understanding, moral character and enhance their spiritual and ethical awareness.

### Areas of Learning

7.5. Pre-School Education is non-compulsory. However, in schools offering pre-school places the Areas of Learning are:

<b>Pre-School</b>
The Arts
Language Development
Early Mathematical Experiences
Personal, Social and Emotional Development
Physical Development and Movement
The World Around Us

The publication, 'Curricular Guidance for Pre-School Education' can be accessed at: <https://www.education-ni.gov.uk/publications/curricular-guidance-pre-school-education>

<b>Primary</b>	<b>Post-Primary</b>
Language & Literacy	Language & Literacy
Mathematics & Numeracy	Mathematics & Numeracy
The Arts	The Arts
The World Around Us	Environment & Society Science & Technology
Personal Development & Mutual Understanding	Learning for Life and Work
Physical Education	Physical Education
	Modern Languages

7.6. The Minimum Content for each Area of Learning and Key Stage means the knowledge, understanding and skills within that Area which are required to be taught to pupils of different abilities and maturities during that stage and is set out in The Education (Curriculum Minimum Content) (NI) Order 2007 available via the DE website. The Northern Ireland Curriculum contains the following stages:

- Foundation Stage for primary pupils in Years 1 and 2
- Key Stage 1 is for primary pupils in Years 3 and 4
- Key Stage 2 is for primary pupils in Years 5 to 7
- Key Stage 3 is for post-primary pupils in Years 8 to 10
- Key Stage 4 is for post-primary pupils in Years 11 and 12

The Key Stage 4 statutory requirements have been designed to give young people more choice and flexibility. The statutory requirements are:

- to develop the cross curricular skills (Communication, Using Mathematics and Using ICT)
- to develop the other skills, defined as Problem-Solving, Self-Management and Working with Others
- Learning for Life and Work
- PE
- RE, based on the core syllabus specified by DE

### **Entitlement Framework**

7.7. The Entitlement Framework (EF) is an integral part of young people's education within the Curriculum at Key Stage 4 (KS4) and Post 16 and is the counter-balance to the reduced statutory requirements outlined above. The overarching policy objective is to guarantee all post-primary pupils aged 14 and above, greater choice and flexibility by providing them with a wide range of learning opportunities suited to their needs, aptitudes and interests. From September 2017, post-primary schools are required to offer access to at least 21 courses at KS4 and at post-16; of which one third must be general and one third applied courses.

7.8. While some schools will be able to deliver the requirements of the EF, many others will have to work in collaboration with other schools, FE Colleges and other

providers to provide their pupils with access to the full range of courses. Significant progress has been made with many more schools now engaged in innovative and creative approaches to collaborative working and this represents a culture change. Area Learning Communities (ALC) were established to facilitate the delivery of the EF and are the forum within which schools, FE Colleges and other providers work together to increase the range of courses for pupils in local areas. This ensures that pupils have access to a broad and balanced curricular offer covering both general and applied courses and each of the Areas of Learning.

7.9. The curriculum for a grant-aided school, i.e. the Areas of Learning and Religious Education, has to give pupils the opportunities to develop the cross-curricular skills and the other skills specified by DE. The cross-curricular skills are:

- Communication
- Using Mathematics
- Using Information and Communications Technology (ICT)

### **The Curriculum and Curriculum Policy**

7.10. The Board of Governors has a duty to determine and keep under review its policy in relation to the curriculum for the school and to make, and keep up to date, a written statement of that policy. The policy determined by a Board of Governors must be compatible with:

- the Minimum Content specified under Article 7(1) of the Education (NI) Order 2006
- any specification for a course of study which forms part of that curriculum and leads to an examination for an approved qualification
- the statutory provisions relating to education, including in particular those relating to children with special educational needs

7.11. In discharging this duty, the Board of Governors has to consider in particular the range of the curriculum, and the balance between, and coherence of, its different components. The Board of Governors has a duty to:

- take account of the findings of any inspection of the school by the Education and Training Inspectorate under Article 102 of the 1986 Order
- consider any representations made to it regarding the curriculum by the EA, the CCMS and any other body or person connected with the community served by the school
- consult the Principal of the school before making or varying its curriculum policy statement

7.12. The Board of Governors is required to ensure that the Principal:

- is allocated such functions under the scheme of management for the school as will, subject to the resources available, enable the Principal to determine and organise the curriculum and ensure it is followed within the school
- send a copy of every such statement made by it to the relevant EA and the CCMS in the case of a Catholic maintained school

7.13. School Boards of Governors may establish a Curriculum Committee to deal with aspects of their Curriculum responsibilities.

### **The Role of the Principal in Relation to the Curriculum**

7.14. The Principal is in charge of the day-to-day management of the school and is responsible for the delivery of the curriculum policy. They will keep the Board of Governors fully informed about:

- statutory requirements in relation to curriculum and assessment
- any directions of temporary exception from the curriculum that the principal has made
- the policies of the school
- the organisation of the school
- the progress of the school
- the management of the school

7.15. While the Board of Governors is responsible, in consultation with the Principal, for formulating and agreeing the school's Curriculum Policy, it is the Principal's responsibility to ensure that it is implemented. The Principal is responsible for determining, in consultation with the teaching staff, the methods and organisation used to deliver the curriculum. The Principal should make sure that the governors are aware of the educational philosophy behind the methods used and should be willing to explain them if asked to do so.

7.16. If, for example, a Principal and staff should decide on a major change in homework policy, it would be good practice to discuss this with the Board of Governors and parents beforehand and by so doing gain their support. Similarly, the Curriculum and the Entitlement Framework have brought about changes and, therefore, it would be prudent to discuss and explain these to parents and governors.

7.17. In delivering the curriculum the Principal should take account of the views of the governors, the parents, the teaching staff, the pupils and the community. The Principal should also take account of:

- statutory requirements in relation to curriculum and assessment
- reports issued by The Education and Training Inspectorate
- the needs of local business and potential employers
- the requirements of examining bodies
- the ethos established by the school owners and promoters

7.18. The Principal has an obligation to monitor and evaluate standards of learning and teaching throughout the school, using data effectively, and report on the outcomes of this process to the Board of Governors. The Principal should seek to involve all teaching staff in the process of monitoring and evaluation, so as to arrive at a shared view of the standards being achieved.

## **Complaints about the Curriculum**

7.19 Parents and other interested parties have a right in law to register a complaint if they feel that a school is failing to meet its statutory duties in relation to the Northern Ireland curriculum. It is important that Boards of Governors have written procedures in place for handling those complaints and for obtaining all the information necessary to reach a decision on whether or not to uphold the complaint. The Department expects most complaints to be resolved at school level. However, where a complainant is not satisfied with the school's decision, the Board of Governors must provide them with the address of the headquarters of the EA and a copy of DE Circular 2016/18.

## **Pupil Assessment**

7.20. Under Article 9 of the Education (NI) Order 2006, the curriculum for every grant-aided school requires each pupil in each Key Stage at the school to be assessed in each school year in accordance with such assessment arrangements as are specified by DE in relation to that pupil and that Key Stage.

7.21. Arrangements for annual statutory assessment to support the curriculum are specified in:

- The Education (Pupil Records and Reporting) (Transitional) Regulations (NI) 2007 (SR2007 No 43).
- The Education (Pupil Reporting) Regulations (NI) 2009 (SR2009 No 231).
- The Education (Assessment Arrangements)(Foundation to Key Stage 3) Order (NI) 2007 (SR2007 No 45)

Schools are required to assess pupils and report in the following areas:

### In all year groups

- Areas of Learning – by assessing the pupil's progress during the year
- The cross-curricular skills of Communication, Using Mathematics and Using ICT, which are to be assessed at the end of Key Stages 1, 2 and 3 with reference to the Levels of Progression to be specified by DE The other skills (Thinking Skills and Personal Capabilities) – by assessing the pupil's progress during the year

### End of Key Stages

- The Regulations require schools to provide parents of pupils in the final year of key stages 1, 2 or 3 (i.e. Years 4, 7 and 10) with the level of progression their child has achieved in any of the cross-curricular skills of Communication, Using Maths and Using ICT

- In addition to the annual report, schools are required to provide parents of pupils in the end of Key Stage 2, Key Stage 4 and sixth form with a summative record of achievement.
- Information on expected end of key stage levels and on levels achieved by pupils in the school generally
- The percentage of pupils in the final year of that key stage in the school attaining: each level; the expected level or above; and working towards the level but who have not yet attained it

#### Qualifications and Other skills

- Where a pupil achieves a qualification, award or certificate, including a credit towards a qualification, this must be included in the report
- (if a school wishes) “Other Skills” provided that they are specifically covered and that it is clear to parents which part of the teacher comments relate to thinking skills and personal capabilities
- Schools continue to have flexibility to include additional information (for example, outcomes from class tests or results from any Computer Based Assessment packages that they may use)

#### Exemptions

- If a pupil in any year has been exempted from any part of the curriculum or assessment arrangements the annual report should indicate this.

7.22. The means of reporting pupil progress will be the annual report, which schools must send to parents by 30 June each year.

7.23. Detailed guidance on the assessment arrangements is provided to schools by DE through circulars issued to Principals, and for the attention of Boards of Governors and these can be accessed at [www.education-ni.gov.uk](http://www.education-ni.gov.uk). The Council for the Curriculum, Examinations and Assessment (CCEA) also issues guidance to teachers on the detailed arrangements for carrying out statutory assessment.

7.24. At Key Stage 4 and Post 16 pupil assessment is carried out mainly through external public examinations. Under the Entitlement Framework all courses offered in schools, which lead to qualifications, are quality-assured through their accreditation within the Regulated Qualifications Framework (RQF). For 14-16 year olds the qualifications taken are mainly at Level 1 and 2 within the RQF and for 16-19 year olds the qualifications are at Level 3.

7.25. At age 14 the curriculum is shaped by the choices offered by the school and opted for by a pupil. At Key Stage 4 (14-16 year olds) Level 2 courses such as General Certificate of Secondary Education (GCSE) should be offered with an emphasis on

improving the range of applied courses available to young people. Pupils will study a range of courses, the number and nature being decided after discussion with teachers and parents, and in the light of individual needs, aspirations and abilities.

7.26. At age 16 decisions are taken with the options of:

- continuing at school
- switching to a college of Further and Higher Education
- taking up an apprenticeship or other form of employment

7.27. At post-16, for those pupils staying on at school Level 3, courses such as Advanced Level General Certificate of Education (A' level GCE) should be offered with an emphasis on increasing the range of applied courses available.

### **Entry for Examinations**

7.28. Boards of Governors have a statutory duty to ensure that pupils are entered at the appropriate times for examinations for which they are being prepared, unless there are educational reasons for not doing so, and the parents of such pupils agree they should not be entered; or the parents request in writing that their child should not be entered.

### **Recognising and Recording Achievement**

7.29. Boards of Governors should be aware of the importance of recognising and celebrating young people's achievements at all stages of their school lives. In primary schools, the Record of Achievement brings together a summative overview of the highlights of pupils' efforts and interests. In addition, the annual report will set out for parents their child's achievements across the curriculum on an annual basis.

7.30. In post-primary schools, the annual report will continue to record achievement across the curriculum. A summative record of achievement highlights broader achievements. The minimum content of the summative record of achievement is specified under Article 9 of Education (Pupil Reporting) Regulations (NI) 2009, consisting of credits, qualifications, certificates and awards. Including brief particulars of involvement in any societies or activities, and any position of responsibility held.

## **The Law**

### **Primary Legislation**

Education (NI) Order 1989 - Article 136 (*Examination Entries*)

Education (NI) Order 2006 – Articles 4-13 (*requirements and duties relating to the curriculum and assessment arrangements in a school*)

Education (NI) Order 2006 – Articles 18-22 (*Access to courses i.e. Entitlement Framework*)

Education (NI) Order 2006 – Article 24 (*reporting pupil progress*)



## **Subordinate Legislation**

Education (Curriculum) (Temporary Exceptions) Regulations (NI) 1990

Education (Curriculum Minimum Content) Order (NI) 2007

Education (Assessment Arrangements) (Foundation to Key Stage 3) Order (NI) 2007 –

Education (Other Skills) Order 2007

Education (Core Syllabus for Religious Education) Order (NI) 2007

The Education (Pupil Records and Reporting) (Transitional) Regulations (NI) 2007 (SR2007 No 43)

Education (Pupil Reporting) Regulations (NI) 2009

The Complaints Tribunal (Curriculum and Related Matters) Regulations (NI) 2016

## **Guidance**

DE Circular1990/45: Temporary Exceptions from the statutory curriculum and assessment provisions for individual pupils

<https://www.education-ni.gov.uk/publications/circular-199045-temporary-exceptions-statutory-curriculum-and-assessment-provisions-0>

DE letter of 27 November 2009 to all schools 'Delivery of the Curriculum and Handling of Complaints from Parents and Other Parties'

<https://www.education-ni.gov.uk/articles/introduction-curriculum-and-assessment#toc-3>

DE Circular 2017/07 and Addendum: Delivering the Entitlement Framework: Guidance to Schools 2017/18

<https://www.education-ni.gov.uk/publications/circular-201707-delivering-entitlement-framework-guidance-schools-201718>

DE Circular 2009/11: Delivery of the Curriculum in Irish medium Primary schools

<https://www.education-ni.gov.uk/publications/circular-200911-delivery-revised-curriculum-irish-medium-primary-schools-and-units>

DE Circular 2016/18: The Complaints Tribunal (Curriculum and Related Matters) Regulations (NI) 2016

<https://www.education-ni.gov.uk/publications/circular-201618-complaints-tribunal-curriculum-and-related-matters-regulations-2016>

Further information on the curriculum and teaching resources

[www.nicurriculum.org.uk](http://www.nicurriculum.org.uk)

## 8. School Finances

This chapter applies to all schools, other than special schools. It explains how schools are funded and sets out the main responsibilities of the Board of Governors and the Principal in relation to the management of a school's finances. It also offers guidance on the components to maintaining a high standard of financial management.

### **The Role of the Board of Governors**

The role of the Board of Governors is to manage the school funds economically, efficiently and effectively for the purposes of the school in accordance with a Financial Memorandum published by the EA. The Board of Governors must:

- have a 3 year financial plan approved by the EA for the school
- contain expenditure within the annual budget approved for the school
- ensure that expenditure is monitored and controlled during the financial year

8.1. The Department (DE) is allocated an education budget by the NI Assembly Executive and the Department's Permanent Secretary is responsible to the Education Minister and the Assembly for the propriety and regularity of the use of those resources. Grants are paid from the DE budget to the EA (i.e. the Funding Authorities for all grant aided schools) and schools expenditure plans are approved by the EA. The grants to schools are subject to financial accounting controls.

8.2. Schools are free to raise extra funds through sponsorship schemes, voluntary contributions from parents and fund raising activities. Separate accounts should be held for non-public funds and the standard of accounting for and control of non-public funds should be as stringent as that required for public funds.

### **Common Funding Scheme**

8.3. Since April 2005 all grant-aided schools, except special schools or schools established in hospitals, have been funded under the law, on the basis of a Common Funding Formula set out in the DE publication 'Common Funding Scheme for the Local Management of Schools'. The formula aims to ensure that schools of similar size and characteristics receive similar levels of funding, regardless of sector or geographical location. The formula is subject to ongoing review and significant changes are subject to consultation with schools in advance of consideration by the Minister for Education.

8.4. The formula intends to distribute the available resources fairly among schools of all sizes and types, making due allowance for costs attributable to pupil numbers, social deprivation, maintenance of premises, pupils with additional educational needs such as Newcomers and Traveller children and a number of other factors. By far the most dominant element within the formula is the number of pupils attending the school. Pupil numbers are 'weighted', so that, for example, a Key Stage 3 pupil attracts more funding

than a pupil in Key Stages 1 and 2. The weightings are intended to reflect the variation in costs associated with provision at the various stages of education, including, for example, the cost of examination entry fees and option choices at Key Stage 4 and Sixth Form level.

### **The Aggregated Schools Budget**

8.5. The total funds available for delegation to school Boards of Governors are known as the Aggregated Schools Budget. Every school receives a formula allocation from the Aggregated Schools Budget for each financial year. The financial year runs from 1 April to 31 March. The formula allocation is expected to cover the school's annual expenditure on a wide range of delegated items. The delegated items are listed at Annex A1 of the Common Funding Scheme and include most staffing costs, some premises related costs and school requisites.

### **Resources Held at Centre**

8.6. Schools may also access some of the funds held centrally by the Education Authority for specific types of expenditure such as most long term staff substitution costs, additional costs approved by DE for statemented pupils, certain premises costs, start-up costs for new schools and contingency provision. Further information is contained in Part 6 and Annex A2 to the Common Funding Scheme.

8.7. Other education funds are held centrally by the Education Authority to meet administration costs, certain advisory and support services including home to school transport and approved capital expenditure. Further information is contained in Annex A3 to the Common Funding Scheme.

### **Financial Management**

8.8. The Board of Governors is responsible in law for the management of the school's financial allocation under the LMS Scheme, in accordance with a Financial Memorandum published by the Funding Authority. The Financial Memorandum sets out the conditions the Board of Governors must fulfil in managing the school's funds. The purpose of the memorandum is to ensure that education funds are used economically, efficiently and effectively. The memorandum describes the role and responsibilities of the Funding Authority and the Board of Governors and sets out the arrangements that the school is expected to have in place for planning, budgeting and control of resources.

### **Expenditure Plans**

8.9. The Board of Governors must agree a 3 year financial plan for its school and submit it to the Education Authority for approval in such form and within such timescale as that Authority may require. The plan must align with the education priorities in the School's Development Plan and cover the incoming financial year in detail and the following 2 years at a level prescribed by the Funding Authority. The plan has to be consistent with the financial resources available to the school and be based on realistic assumptions of pupil numbers and income and estimates of expenditure.

## **Budgetary Control**

8.10. Expenditure should be contained within the annual budget, unless otherwise approved by the Funding Authority for the school. This is a major responsibility and governors are expected to show prudence in managing the school's finances. Expenditure should be monitored in a systematic way during the financial year to ensure that it is properly controlled.

## **Surpluses and Deficits**

8.11. The Board of Governors may accumulate savings and carry them forward into the next financial year, but any deficit balances must also be carried forward. Surplus and deficit balances should not exceed 5 per cent or £75k (whichever is the lesser) of the school's total delegated budget for the financial year, unless they are being accumulated for specific purposes and these are detailed in their 3 year financial plans. Where for any reason this is not achieved, the school's 3 year financial plan must rectify the position. The Funding Authority monitors and provides advice on surplus and deficit balances.

## **Delegation**

8.12. While retaining oversight and responsibility for the school's finances, the Board of Governors may delegate certain activities to a committee of its members and/or the Principal in accordance with the Financial Memorandum for its school. It is expected that many schools will have a Finance Committee. Voluntary grammar schools can have a Finance Committee and a separate Audit Committee and grant maintained integrated schools are required to appoint a 'Responsible Officer' to fulfil certain responsibilities and to provide an independent check on financial issues. In all situations, the Board of Governors should ensure that written statements are maintained of the delegated activities of its committees and the Principal and any other person with financial responsibilities.

## **The Finance Committee**

8.13. The delegated duties of a Finance Committee may include:

- considering a draft financial plan prepared by the Principal for the incoming year in the context of the school's formula funding allocation and its Development Plan
- exploring different expenditure options
- forecasting future pupil enrolments and income levels
- monitoring budgeted income and expenditure on a monthly basis
- monitoring and adjusting as necessary in year actual against approved expenditure
- finalising end year accounts and reviewing outcome
- assessing the effectiveness of financial decisions
- agreeing a written statement of the school's financial systems and procedures

- administering voluntary and private funds including the school's Charging and Remissions Policy
- making recommendations to the Board of Governors on financial matters

### **The Role of the Principal**

8.14. While the Board of Governors must determine how the school's financial budget will be allocated for specific purposes, the Principal is normally responsible for expenditure estimates, day-to-day decisions on spending and weekly monitoring of expenditure to make sure that the school budget is not exceeded. The Principal must ensure that full financial records are kept in relation to all school funds and that these records are presented regularly to the Board of Governors in keeping with the requirements of the guidance issued by the Funding Authority.

### **The School Development Plan**

8.15. The aim of the Board of Governors is to match expenditure with the delivery of the school's curriculum. This will necessitate the Principal, in consultation with the Board of Governors, specifying in the school's Development Plan the school's curriculum objectives, how it proposes to achieve these, and the resources required. This Plan should then be costed on the basis of employee costs, premises costs, school requisites for teaching and learning and transport and other costs. The total estimated costs should then be matched against the school's budget allocation. If there is an anticipated overspend, then priorities will have to be identified and the plan revised, so that expenditure is brought within budget limits. The Principal is responsible for ensuring that this plan is implemented and for monitoring spending on a continuous basis.

8.16. Annex H of the School Development Planning Guidance (2010) relates to the accounting for Targeting Social Need (TSN) Funding and includes a template to record the school's activities in relation to their use of the TSN element of funding they already receive. This template has been refined to ensure it captures not only the use of TSN funds but also the impacts and outcomes of this element of the schools' budgets.

### **Financial Management Standards**

8.16. The following guidance is offered on the essential components to maintaining a high standard of effective financial management:

#### **i. Leadership and Governance**

- The Board of Governors should be aware of its own financial management responsibilities and those of its finance committee, any designated officer, the Principal and any other relevant school staff, especially a Bursar.
- The Board of Governors should ensure that its members and the school staff avoid any conflict between their business and personal interests and the interests of the school.
- The Board of Governors should maintain an up-to-date register of members' personal and pecuniary interests and ensure that any conflicts of interests are avoided as required by the school's scheme of management.

- The Board of Governors can develop its knowledge, skills or experience in financial management through the recruitment and co-option of governors with experience in this area and the take up of the training, advice, information and support services that are available to all schools.

## **ii. People Management**

- The Principal and any other relevant staff should be aware of their own and each other's responsibilities in relation to school finance and how each contributes to the school's overall financial procedures.
- The staff should be deployed in such a way that financial controls are effectively maintained, even in the event of staff changes and absences of key personnel.
- Job descriptions should include relevant financial management functions.
- Reasonable efforts should be made to ensure that the school is not overly reliant on any one member of staff with regard to financial matters. Staff should have the opportunity to attend appropriate training.

## **iii. Strategic Planning**

- The school's annual expenditure plan should be realistic and affordable in terms of the funds available and approved by the Board of Governors on a timely basis.
- It should reflect the school's development plan and be consistent with the school's longer term financial plans (including any deficit recovery) and strategic educational goals. It should have regard to achieving best value for money.
- It should be designed to manage any serious risks facing the school.

## **iv. Processes**

- The systems and procedures operated within the school should meet the information, accounting and the reporting requirements of the governors and the Funding Authority.
- The processes should take account of the need for regular expenditure monitoring and risk management throughout the financial year and include controls to safeguard the proper use of resources including the school's assets.
- The Funding Authority provides advice on administrative and accounting and audit procedures; this includes advice on purchasing and contract procedures.

## **Restriction, Suspension or Loss of School Budget**

8.17. The Funding Authority has the power to restrict, suspend or withhold a school budget where the Board of Governors has failed to comply with any requirement or conditions associated with public funding or has not managed the budget share satisfactorily. This means that the Board of Governors temporarily loses some of its responsibilities but these may be restored after an annual review provided that appropriate standards are then in place. Loss of a delegated budget is a rare event and will remain so because schools should discuss any problems that might lead to suspension with the Funding Authority and seek to rectify them before formal action arises.

## **Liability of Boards of Governors**

8.18. The law makes it clear that the governors of a school will not incur any personal liability in respect of any action taken in good faith in the exercise of their powers. Information about the provision for indemnity is contained in the Financial Memorandum.

## **The Law**

The Education (NI) Order 2003 – Articles 3 to 9 (*Funding of Grant-aided Schools*)

The Education (NI) Order 2003 – Articles 10 to 12 (*Financing of boards*)

The Education (School Development Plans) Regulations (NI) 2010

## **Guidance**

Common Funding Scheme for the Local Management of Schools, DE  
<https://www.education-ni.gov.uk/articles/common-funding>

### Financial Memorandum

Guidance on the Financial Management Arrangements for Controlled and Maintained Schools Funded under the Common Funding Scheme, EA

Financial & Audit Arrangements Manual for Voluntary Grammar Schools, EA

Financial & Audit Arrangements for Grant-Maintained Integrated Schools, EA

Every School a Good School – School Development Planning 2010 (*DE publication*)  
<https://www.education-ni.gov.uk/articles/school-development-planning>

## 9. School Staff

This chapter explains the employment functions of a Board of Governors that also has responsibility for the school's finances. Decisions about staffing are important as they can affect the quality of the school's education provision. Staffing issues can be complex and Boards of Governors should make use of the training and support services available. Training courses are available for governors together with an experienced Human Resources (HR) support service. Information and advice is also available from the Labour Relations Agency (LRA) and from the Department for Employment and Learning (DEL) about employment legislation.

### **The Role of the Board of Governors**

The role of the Board of Governors is to exercise its functions in relation to employment matters, with a view to maintaining and raising standards of education performance in the classroom. The Board of Governors is required to:

- recruit and select staff for appointment to the school
- determine the school's staffing complement
- regulate staff conduct and discipline as required by law
- take decisions on payments relating to staff dismissals or resignations
- exercise other employment functions, such as the management of the performance of the Principal, staff attendance, staff training and development

### **The Employing Authority**

9.1. The Education Authority (EA) is the Employing Authority of teachers in controlled schools and support staff in controlled and voluntary maintained schools in its area. The CCMS is the Employing Authority for teachers in Catholic voluntary maintained schools. The Board of Governors of a non-Catholic voluntary maintained school (including an Irish medium school) is the Employing Authority of teachers in its own school. The Board of Governors of each voluntary grammar and each grant maintained integrated school is the Employing Authority for all staff in its own school.

9.2. Responsibility for the collective employment functions of teachers such as remuneration and terms and conditions of employment for teachers, negotiating with trade unions and strategic workforce planning currently resides with the 'Teachers Salary and Conditions of Service Committee (Schools)' which is representative of the employing authorities, teacher unions and the Department of Education (DE).

9.3. The current arrangements relating to remuneration and terms and conditions of service for support staff in controlled and maintained schools are agreed through the Joint Negotiating Council (JNC). The Boards of Governors of voluntary grammar and



grant-maintained integrated schools determine whether to adopt the JNC arrangements.

## **The Role of the General Teaching Council for NI (GTCNI)**

9.4. The GTCNI is the independent professional body for teachers. It operates at an overall strategic level to enhance the status of teaching and to promote the highest standards of professional conduct and practice. Its main responsibilities are:

a) **the registration of all teachers in grant-aided schools**

The Board of Governors cannot employ a person as a teacher unless he or she is registered with the GTCNI. The GTCNI may charge a teacher a registration fee.

b) **Code of Values and Professional Practice**

The GTCNI consulted widely before issuing its Code of Values and Professional Practice. The Code makes explicit the values underpinning ethical teaching practice and the commitments the profession makes to pupils, parents and the wider education community. The GTCNI publication 'Teaching: the Reflective Profession' includes the latest version of the Code. In addition to the Code, this publication sets out the NI teacher competences which describe the knowledge, skills and understanding that teachers should demonstrate and the competences statements provide a framework for early teacher education and career-long professional development.

c) **Regulation in respect of teacher professional misconduct**

The GTCNI is responsible for considering cases of serious teacher misconduct in accordance with its Misconduct Rules, and where appropriate has the power to remove a teacher from its register if found guilty; consequently such a teacher will no longer be able to teach in a grant-aided school in Northern Ireland.

[DE Circular 2015/12](#) explains the action to be taken by schools and employing authorities to enable the GTCNI to consider such cases.

The GTCNI's role does not however replace the existing disciplinary powers of schools in relation to teachers, including principals and vice-principals.,.

d) **The provision of advice**

The GTCNI is responsible for providing advice to DE and employing authorities on matters relating to teacher registration, teacher training, career development, performance management and standards of teaching and conduct.

9.5. The establishment of a General Teaching Council is an important development in education in the Northern Ireland, for both teachers and Boards of Governors. Since the profession has now clearly articulated what its core values and competences are, teachers are in the position to apply and develop them as an essential and integral part of their continuing professional development, and Boards of Governors can be clear as to what they can expect from teachers in relation to professional practice and commitment.

## The Role of the Board of Governors and the Principal

9.6. The Board of Governors has overall responsibility for staffing matters at the school. Many staff functions may be delegated by the Board of Governors to the Principal, or to a committee of the governors working with or without the Principal, in accordance with the provisions of the school's scheme of management.

9.7. The role of the Principal is to advise the governors on current staffing requirements, current deficiencies if any, anticipated future difficulties, the promotion of staff, and the suitability of applicants for vacancies. The deployment of staff is a matter for the Principal who will wish to make best use of the particular skills and expertise of all staff and deploy these to the best advantage of the pupils. The Principal will also wish to encourage staff development. The functions of the Board of Governors are set out in this chapter under the general headings:

- **Staff Appointments** which includes recruitment and selection, the staff salary policy, pay and conditions of service, promotions and teaching allowances
- **Staff Management** which includes staff attendance, career break and job sharing schemes, leave of absence/special leave, staff conduct and discipline, staff suspensions and dismissals
- **Staff Performance** which includes induction training, performance review, training and development and unsatisfactory performance
- **Staff Welfare**
- **Staff Redundancy and Retirement Schemes**

### Staff Appointments

#### Recruitment and Selection of Staff

9.8. The appointment of staff is one of the most important responsibilities of governors. The success of any school is largely dependent on the quality, professionalism and expertise of its staff. Since staff members are the most valuable and expensive resource, it is vitally important that the best person is appointed to fill a vacancy.

9.9. All Boards of Governors are responsible for school-specific functions on the recruitment and selection of staff which include:

- the appointment of Principals, Vice-Principals, teachers and support staff
- the determination of job descriptions and personnel specifications
- the constitution of interview panels and the selection of teaching and support staff

9.10. Before making any teaching appointments, including the appointment of any substitute teacher, the school must ensure that the teacher is registered with the GTCNI. Substitute teachers should also be registered with the NI Substitute Teachers Register (NISTR).

9.11. The Education Authority has provided the Boards of Governors of controlled schools with a scheme, approved by the Department of Education, detailing the procedures to be followed in relation to the appointment of Principals, Vice-Principals and teachers. CCMS has provided the Boards of Governors of Catholic maintained schools with an equivalent scheme, approved by DE. The EA also has procedures for the appointment of support staff in controlled and maintained schools. The Boards of Governors of all other schools have been responsible for determining their own staff recruitment and selection procedures which must comply with the procedures in the school's scheme of management and all of the relevant employment and child protection legislation.

9.12. Applications for posts at the school must be judged on their merits against the objective requirements of the job. Allegations that a candidate has been given preferential treatment may lead to challenge and summons before an employment tribunal. The anti-discrimination law in Northern of Ireland prohibits discrimination on the grounds of religious belief, political opinion, race, disability, sex, marital status, sexual orientation and age. In addition specific obligations are imposed on 'public authorities', in respect of the need to promote equality and the desirability of promoting good relations under Section 75 of the Northern Ireland Act 1998. The recruitment of teachers in schools in Northern Ireland is at present exempt from the Fair Employment legislation which prohibits religious discrimination.

9.13. In carrying out its duties, the Board of Governors is responsible for:

- forming selection panels
- ensuring proper balance in the membership of panels (for example gender, religion) according to the nature of the school
- ensuring that members of selection panels are properly trained in recruitment and selection procedures and that at least one governor on each staff recruitment and selection interview panel has undertaken appropriate child protection training
- ensuring that the proper procedures for shortlisting, interviewing and appointing staff are followed and that the process is carried out fairly and transparently
- ensuring that recruitment and selection procedures comply with child protection legislation as outlined in the [DE Circular 2006/06](#)
- ensuring that all new staff and volunteers have an induction that includes appropriate training in their school's child protection policy and procedures

### **Staff Salary Policy**

9.14. Salary decisions have a very substantial effect on the management structure of a school and on school finance. That being so, governors must take seriously any decisions they take in relation to salaries. Since 1993, Boards of Governors of schools have had statutory responsibility to develop a Salary Policy related to the particular needs of schools and to keep their Salary Policy under annual review. Guidance was provided by the Employing Authorities to Boards of Governors on the formulation and implementation of a Salary Policy relating to teachers, of which the Board of Governors should take account. The Board of Governors has the following responsibilities:

- to have, for all staff, a salary policy that relates to the particular needs and circumstances of the school and the resources available to it and that:
- supports the plans and priorities for the school's future development
- takes full account of the guidance issued by the Funding Authority
- identifies the administrative process to be applied in implementing the policy
- to review their salary policy annually
- to consult with teachers before formally adopting or reviewing the policy
- to determine salary awards in consultation with the Principal. The school's salary awards and the salaries of staff must be reviewed annually
- to give every teacher annual written notification of their salary placement and how it was arrived at
- if it so decides, to award a salary increase for the Principal and Vice-Principal(s) provided there has been a successful review of performance in the context of performance objectives

### **Teachers Pay**

9.15. The Department of Education, in accordance with the provisions of Article 69 (1) and (6) of the Education and Libraries (NI) Order 1986, determines the salaries and allowances to be paid to teachers in grant aided schools. A classroom teacher must be paid on one of six points on the main pay scale or one of three points on the upper pay scale. With satisfactory performance, teachers on the main pay scale can progress one point per year to a maximum of point six. Having completed one year on point six of the main pay scale, classroom teachers can apply for threshold progression on to the upper pay scale. With satisfactory performance, a teacher can progress up the upper pay scale one point every two years, to a maximum of point three. In addition, classroom teachers can be awarded a teaching allowance, a special needs allowance and/or a recruitment and retention allowance.

9.16. Principals and Vice-Principals are paid on individual ranges on the leadership salary scale, linked mainly to the size of their school. The Principal's salary is set within a seven-point individual school range and the Vice-Principal's salary is set within a five-point pay range and must start on a point above the highest paid classroom teacher. With satisfactory performance, Principals and Vice-Principals may be awarded one progression point and in the case of exceptional performance one additional point may also be awarded.

### **Promotions and Allowances for Teaching Staff**

9.17. The procedures relating to the awarding of allowances are set out in the 'Guidance to Boards of Governors on the Formulation and Implementation of Salary Policy'. All decisions regarding the award of an allowance should be consistent with the school's management structure, which should be agreed by the Board of Governors and incorporated in the school's salary policy.

## **Terms and Conditions of Service of Teachers**

9.18. The professional duties of a Principal are set out in Schedule 1, Regulation 4 of the Teachers (Terms and Conditions of Employment) Regulations (NI) 1987, which state that a Principal:

- is required to carry out their professional duties in accordance with the school's policy and objectives, as determined by the Board of Governors
- shall obey the reasonable directions of the Board of Governors
- consult with the Board of Governors where appropriate

9.19. A Vice-Principal may be assigned particular duties, additional to their professional duties as a teacher, by the Principal as set out in Schedule 2, Regulation 4 of the Teachers (Terms and Conditions of Employment) Regulations (NI) 1987.

9.20. Teachers, including Vice-Principals, are required to carry out their professional duties as reasonably directed by the Principal. The professional duties that a teacher may be reasonably asked by the Principal to do, are set out in Schedule 3, Regulation 5 of the Teachers (Terms and Conditions of Employment) Regulations (NI) 1987.

## **Pay and Terms and Conditions of Service for Support Staff**

9.21. The current arrangements relating to remuneration and terms and conditions of service for support staff in controlled and maintained schools, have been agreed through the Joint Negotiating Council (JNC). JNC Circular No 156 sets out the pay rates for 2008/9.

## **Staff Management (Teaching and Support Staff)**

### **Staff Attendance**

9.22. Regular attendance by staff is critically important for the continuity and effectiveness of pupils' learning. Furthermore, when a member of staff is absent, for whatever reason, it puts additional stress on those who are required to 'cover' for the absence and, in the case of a school having to employ a substitute teacher, it negatively affects school finances.

9.23. The Board of Governors has the following statutory duties:

- to have overall responsibility for ensuring the effective management of the attendance of all school staff
- to ensure that the staff attendance policy, agreed by the employing authorities following consultation with trade union representatives, are applied fairly and equitably

9.24. The roles and responsibilities of Boards of Governors for managing teacher attendance are contained in the Teacher Attendance Procedure (TNC 2008/02) and the Regional Strategy for the Management and Promotion of Teacher Attendance which is available on the Department's website. Boards of Governors are encouraged to

promote good attendance, bearing in mind the effect of teacher absences on the school budget and education standards in the classroom.

### **Career Break Schemes**

9.25. The Career Break Scheme provides staff with the facility of taking a break in their careers. The use of a career break is also beneficial to the school, as staff members widen their experience and enhance the skills and knowledge that they bring to the school on their return. The roles and responsibilities of Boards of Governors for granting a teacher a career break are contained in the Career Break Scheme for Teaching Staff (TNC 2009/05) which is available on the Department's website. A similar scheme is available for other staff (see JNC Circular No 129).

### **Job Share Scheme**

9.26. Job sharing is a method of working where two staff members share one full-time post. Job sharing is different from part-time work in that, although the hours worked by each post holder are part-time, together the staff members take joint responsibility for the full-time post and are regarded as a full-time unit. Job sharing arrangements can be permanent or temporary for a maximum of two years. The roles and responsibilities of Boards of Governors in considering applications for job share arrangements are contained in the Teachers' Job Share Scheme (TNC 2009/04) which is available on the Department's website. A similar scheme is available for support staff (see JNC Circular No 21).

### **Occupational Maternity Leave Scheme**

9.27. The occupational maternity leave scheme applies to all pregnant staff regardless of their length of service or number of hours worked per week. Staff on maternity leave are entitled to remain absent for up to 26 weeks' ordinary maternity leave and 26 weeks' additional maternity leave. The TNC circular Teachers' Maternity Leave Scheme (TNC 2014/2) provides full details of the scheme and is available on the Department's website. A similar scheme is available for support staff (see JNC Circular No 117).

### **Paternity Leave Schemes**

9.28. Following the birth of a child or the placement of a child for adoption, staff members who are eligible for paternity leave have the right to take either one or two weeks paid statutory paternity leave to care for the child or support the mother or, in the case of adoption, the adopter or other adopter. The TNC circular Teachers' Paternity Leave Scheme (TNC 2014/4) provides full details of the scheme and is available on the Department's website. A similar scheme is available for support staff (see JNC Circular No 118).

### **Adoption Leave Schemes**

9.29. Paid adoption leave is available to staff, where an approved adoption agency notifies the adopter of a match with a child. Eligible staff members are entitled to take paid adoption leave when a child is newly placed for adoption. The TNC circular Teachers' Adoption Leave Scheme (TNC 2014/3) provides full details of the scheme

and is available on the Department's website. A similar scheme is available for support staff (see JNC Circular No 119).

### **Leave of Absence**

9.30. From time to time, staff will request leave to enable them to deal with personal circumstances. All requests for leave of absence will, in due course, be considered by a school's Board of Governors. Consequently, the Board of Governors has a responsibility to consider such requests taking full account of:

- the context in which the request is made
- its legal obligations
- the potential effects the granting of such a request might have for the school

9.31. Boards of Governors should also be aware of the content of other family friendly provisions that have been agreed by the Teachers Negotiating Committee, for example Teachers' Parental Leave Scheme (TNC 2014/5), Flexible Working Scheme (TNC 2009/6) and Temporary Variation of Contract (TNC 2009/07). Similar schemes have been agreed for support staff (see JNC Circular No 120 and policies listed at the end of this chapter).

### **Staff Conduct: Discipline and Staff Grievances**

9.32. All school Boards of Governors are required to establish staff disciplinary rules and procedures and procedures for affording school staff opportunities to seek redress of any grievance in relation to their employment and to take steps to make these known to the staff of the school.

9.33. The Board of Governors must adhere to the disciplinary and grievance procedures, agreed at the Teacher Negotiating Committee and the JNC or its successor and make these procedures available to staff.

9.34. Discipline issues arise where the school is dissatisfied with the conduct or behaviour of a member of staff. The TNC Circular 'Disciplinary Procedure For Teachers, Including Principal and Vice Principals, In Grant-aided Schools With Fully Delegated Budgets' (2007/5) and the 'Disciplinary Procedure For Teachers Notes of Guidance For Relevant Bodies' (2008/04) set out the roles and responsibilities of all parties involved in disciplinary cases, the steps to be taken and also the appeal processes available to a teacher, if they are dissatisfied with the outcome of disciplinary proceedings. For support staff, reference should be made to the 'Disciplinary Procedure for Non-Teaching Staff in Grant-aided Schools with Fully Delegated Budgets'.

9.35. Grievances arise where a member of staff feels dissatisfied, for example, with working conditions, or considers that they have been the victim of harsh or unfair treatment. The TNC Circular 'Grievance Procedure for Principals, Vice-Principals and Teachers In Grant Aided Schools' (TNC 2014/6) sets out the steps to be followed by a teacher raising a grievance against their employer, including the time limits which apply at each stage of the procedure (unless altered by agreement). There is a separate policy procedure for school based staff.

9.36. Staff disciplinary and grievance procedures are intended to resolve problems. Neither of these procedures should be regarded as negative activities, since the outcome may lead to a significant improvement which is beneficial to the member of staff concerned and to the school.

9.37. Before invoking the formal stage of the grievance procedure, the staff member should be offered the opportunity to resolve the grievance using an independent mediation process. Mediation is non-prejudicial and the parties do not waive their rights to access other procedures or processes by agreeing to participate. The TNC Circular 'Mediation Procedure' (Annex A of TNC 2014/6) outlines the mediation principles and procedure which will be used by the employers' internal mediation team. It also sets out the roles and responsibilities of each party involved in the mediation.

### **Staff Suspension**

9.38. The decision to suspend a member of staff on a precautionary basis is the responsibility of the Board of Governors. Consultation with the relevant employing authority is highly recommended. A precautionary suspension can be considered for the following reasons but if you are in any doubt contact the relevant employing authority for advice:

- Child protection – See DE publication Safeguarding and Child Protection in Schools – A Guide for School (paragraphs 5.5), TNC 2007/5; TNC 2008/4; 2009/11; DE Circular 2015/13 for guidance
- Disciplinary – See 2007/5 and TNC 2008/4 for guidance – the latter includes examples of serious or gross misconduct at Appendix 1 paragraph 4
- Medical or Health & Safety – by its nature should only be for a short period of time – See TNC 2013/1 for guidance

9.39 A precautionary suspension of a member of staff is the suspension from duty, on full pay. It is important to stress that a precautionary suspension is not a disciplinary measure in its own right. A member of staff must be placed on precautionary suspension on a 'without prejudice' basis and without any loss of salary pending the outcome of any investigation or examination.

9.40 A precautionary suspension can have far reaching implications, not only for the member of staff involved, but also for his/her family, for pupils in the school, for their parents and for other members of staff. The decision to impose a precautionary suspension should only be taken after very careful consideration of the circumstances surrounding each individual's case and then only where it is deemed absolutely necessary to do so. A precautionary suspension should not be the default option but rather the last resort. Alternate actions should be a key consideration of the decision process.

9.41 Alternative actions, acceptable to the member of staff, that fall short of a precautionary suspension but which serve the same purpose must be fully explored. Clearly the reasons for considering the need for a precautionary suspension will have a bearing on the possible range of alternative actions but subject to suitability and



availability, examples of alternatives to a precautionary suspension could include redeployment or:

- a. moving the member of staff temporarily to other duties within the school;
- b. moving the member of staff temporarily to other duties outside the school perhaps redeployment within the employing authority; or
- c. Providing an assistant to be present when the individual has contact with children.

9.42 Whilst alternatives to precautionary suspension may not always be available or appropriate, no individual should be placed on a precautionary suspension if there is a reasonable suitable alternative available for them. It is recommended that advice be sought from the relevant Employing Authority before placing a member of staff on precautionary suspension and at every stage of the process thereafter.

9.43 It is vital that precautionary suspensions are managed effectively and that every effort is made to reach a conclusion as quickly as possible. Boards of Governors must keep precautionary suspensions under regular review to ensure that they don't become unduly protracted. It is recommended that precautionary suspensions should be reviewed at least on a monthly basis. The Department of Education monitors precautionary suspensions through a quarterly report provided by employing authorities and school Boards of Governors. A precautionary suspension, once put in place, can only be ended by the Board of Governors.

### **Staff Dismissal**

9.44. Where the Board of Governors decides that the contract of anyone employed in the school should be terminated, it must notify the Employing Authority (where this is not the Board of Governors) in writing, giving reasons for its determination. If the person is employed under contract to work solely at the school and does not resign, the Employing Authority must within one month of receipt of the notification, give the person notice of termination, in accordance with the contract or with immediate effect, if the conduct of the employee warrants it.

9.45. In the case of someone who is under contract to work at the school and another school or schools, the Employing Authority shall require the person to cease work at the school that issued the notification. It is for the Board of Governors to determine whether any payment should be made by the Employing Authority in respect of the dismissal or for securing the resignation of the employee and the amount of the payment. Any such payment should not normally be deducted from the school's budget share, except in so far as the Funding Authority has good reason for deducting those costs in whole or in part from the budget share. (The fact that the Employing Authority has a policy precluding dismissal of its employees by reasons of redundancy is not regarded as a 'good reason'.)

9.46. These arrangements do not apply to the dismissal of a teacher who is not registered with the GTCNI or to the dismissal of non-teaching staff who do not comply with the eligibility requirements for employment in grant-aided schools.

9.47. The Board of Governors is required:

- to make arrangements for the employee to make representations with respect to their dismissal, including oral representation, to the person or persons appointed by the Board of Governors for this purpose
- to take account of any such representations
- to consider any advice given by any relevant officer of the Employing Authority who is entitled to attend all the proceedings of the Board of Governors relating to the dismissal, prior to making the final decision

### **Misconduct of Teachers**

9.48. The Board of Governors must report to the GTCNI any teacher who has been dismissed for non-child protection related misconduct, whether or not they are convicted of a criminal offence, or who would have been dismissed or considered for dismissal, if they had not resigned. (NB – where the Board of Governors is not the employing authority it must in the first instance report the dismissal to the relevant employing authority). They must also provide information about:

- those cases where an alleged misconduct is considered so serious as to warrant a precautionary suspension or dismissal
- all the surrounding circumstances that resulted in the precautionary suspension or dismissal
- those cases where the above points would have applied but for the teacher resigning or leaving the school's employment under other circumstances

### **Staff Performance**

#### **Induction and Early Professional Development of Beginning Teachers**

9.49. All beginning teachers are required to take part in an induction programme of support to help them consolidate their skills in the classroom. The programme is provided by the EA, as the lead body, in partnership with schools and higher education institutions. On successful completion of the induction stage, all beginning teachers undertake a programme of early professional development (EPD). This stage of a teacher's professional development is provided by schools, as the lead bodies, in partnership with the EA and higher education institutions. It is the responsibility of Boards of Governors of schools to confirm, or otherwise, the successful completion of induction and EPD and to inform the GTCNI.

9.50. Further details of these two stages of a beginning teacher's professional development, together with the roles, responsibilities and teaching competences associated with each, may be accessed online in the 'Teacher Education Partnership Handbook (August 2010 Edition)' and in the publication 'Teaching: the Reflective Profession'; the relevant web links are recorded under the **Guidance** heading at the end of this chapter.

## **Performance Review and Staff Development (PRSD): Teachers**

9.51. A Performance Review and Staff Development (PRSD) Scheme, agreed at the Teachers' Negotiating Committee, applies to all qualified teachers, other than teachers participating in induction and early professional development. PRSD is integral to the school development planning process. It is designed to contribute to the process of continuous improvement and to assist Principals and teachers to improve their individual performance. Under the Scheme, the Board of Governors has a strategic role for adopting a PRSD policy for their school and for monitoring its implementation.

9.52. The Board of Governors has a duty:

- to review the performance of the Principal annually
- to ensure the professional development and performance of teachers is reviewed annually in accordance with the PRSD Scheme

9.53. A Board of Governors is required to designate a minimum of two governors to undertake an annual review of the Principal's performance. External advisors are appointed to each school to help and advise the governor reviewers. However, if a school can demonstrate that they no longer require the use of an external advisor they can opt out of using the services of an external advisor. Responsibility for agreeing objectives and reviewing the performance of the Principal rests with the governor reviewers. The Principal is responsible for reviewing the Vice-Principal and the Principal designates the reviewer of the other members of staff.

9.54. More detailed information is contained in the Performance Review and Staff Development Scheme and in addition, the role of the governors designated to review the Principal's performance is set out clearly in the PRSD guidance for governors and Principals.

## **Performance of Support Staff**

9.55. The Board of Governors may request an annual report from the school Principal on the assessment of performance of the non-teaching staff employed in the school. This annual report should contribute to the school's staff training and development plan.

## **Staff Training and Development**

9.56. The Board of Governors has a responsibility to the school, to promote the personal and collective professional development of its staff, both teaching and non-teaching. This includes:

- devising and implementing a training and development policy linked to the outcomes of the PRSD exercise
- ensuring that the policy takes proper account of the needs of the school and provides clear guidance for staff in relation, for example, to secondments, attendance at courses during the school day, in-school time for teachers to undertake further professional qualifications
- being fair in implementing the policy

- ensuring that the school makes the best use of all the training and development days approved annually by DE including 'Baker Days'
- taking full account of the needs of the school when considering applications from staff for support in terms of, for example, finance and time release, to undertake further professional training
- producing a costed training and development plan appropriate to the needs of the school

9.57. The Board of Governors should ensure that any school training and development plan takes full account of their school's costed three year development plan.

## **Effective Leadership and Teaching**

### **i. Principals and Teachers**

9.58. The matters causing concern to the Board of Governors and which give rise to the initiation of procedures relating to the effective leadership and teaching may relate to pedagogic competence (for example quality of teaching, lesson planning and preparation, classroom relationships) or other aspects of professional performance, such as planning, management and leadership. In the case of support staff, administrative and financial and technical competence need to be considered, together with planning, management, productivity and leadership skills.

9.59. The test to be applied in determining whether the procedure/s should be invoked, is whether the standard of work or the nature of the deficiencies are having, or likely to have, a detrimental effect on the educational progress of the pupils and/or on the effective functioning of the school.

9.60. The Board of Governors should distinguish between a question of capability and a disciplinary matter. Where the work or aspects of the work of a Principal or teacher is giving cause for concern this means not doing the job to the standards required.

9.61. Where the work of a teacher is giving cause for concern, every effort must be made to give the teacher reasonable time, opportunity and assistance to address identified difficulties and to become effective. The teacher must have access to appropriate support and training. If the teacher will not co-operate with the support programme offered under the scheme, appropriate disciplinary action will have to be considered.

9.62. Guidance on when the work or aspects of the work of a Principal or teacher is giving cause for concern can be found in the following documents:

- TNC 2013/3 – Procedure for Supporting the Effective Leadership by School Principals
- TNC 2013/4 – Procedure for Supporting Effective Teaching in Schools

9.63. It is imperative that the Board of Governors follows the agreed Procedures rigorously, particularly with reference to provision of a support programme, arrangements for monitoring, the involvement of the Education and Training

Inspectorate and arrangements for appeal. The Board of Governors is required to apply the Procedures in a fair and sensitive manner, consistent with the Equality of Opportunity Policy Statement for teachers.

9.64. Where a Board of Governors has ceased to use a teacher's services on grounds relating to professional incompetence, or might have ceased to use the teacher's services on such grounds had the teacher not ceased to provide the services, it must report the case to DE (until such time as the GTCNI has its disciplinary powers).

## **ii. Support Staff in Schools**

9.65. In the case of support staff in schools, advice on procedures is available from the Human Resource Section of the School Support Service in the EA.

## **Staff Welfare**

9.66. The Board of Governors has a general duty of care in respect of the health, safety and welfare of all members of staff and others who may be using school premises. The TNC Circular Teacher Attendance Procedure (TNC 2008/02) and the Regional Strategy for the Management and Promotion of Teacher Attendance provides advice and guidance to Governors on monitoring teacher absence due to sick absence. There are other policies and procedures in place to assist and support teachers, such as Temporary Variation of Contract (TNC 2009/07), Flexible Working Scheme (TNC 2009/06) and Career Break Scheme (TNC 2009/5).

## **Alcohol and Drug Misuse**

9.67. Alcohol and drug misuse can have an effect on an employee's health and wellbeing, and can give rise to a wide range of social problems affecting family, friends and colleagues. Alcohol and drug misuse can have a negative impact on conduct at work or on the job performance and the career prospects of staff and lead to such problems as:

- unhealthy role model for pupils
- reduced educational opportunities for pupils
- reduced classroom performance
- poor judgement, accidents, poor time keeping and absenteeism

9.68. The TNC Circular 2005/5 'Alcohol and Drug Misuse Policy and Procedures for Teachers in Grant-Aided Schools' provides information and guidance on dealing with staff misuse of alcohol and drugs.

## **Staff Harassment and Bullying**

9.69. The Board of Governors should recognise that staff are its most valuable asset and have a right to be treated with dignity and respect. It has to be committed to the promotion of a harmonious and supportive working environment and to treating and investigating all allegations of bullying and harassment with equal seriousness, according to the negotiated procedures and protocols. Bullying and harassment is unacceptable behaviour.

9.70. A Board of Governors needs to be aware that bullying and harassment may infringe domestic and European legislation such as Health and Safety at Work (NI) Order 1978, Sex Discrimination Orders (NI) 1976 and 1988; The Fair Employment and Treatment Order 1998; the Race Relations (NI) Order 1997; the Disability Discrimination Act 1995; the Human Rights Act 1998; and Common Law.

9.71. The TNC Circular 2005/2 'Promoting a dignified Workplace' provides a policy statement and code of practice on measures to combat bullying and harassment of teaching staff in schools. JNC Circular No 77 provides information in relation to support staff in controlled and maintained schools.

## **Staff Redundancies**

9.72. It is the responsibility of the Board of Governors to determine staffing levels in its school. When the possibility of a redundancy becomes apparent, it is essential that the correct procedures are followed. The 2010/1 TNC Circular 'Procedure for Handling Teacher Redundancies' provides information and guidance to Board of Governors in dealing with this issue. Employing authorities have also issued supplementary guidance to controlled and maintained schools on handling redundancies in schools. In the case of all other grant-aided schools, the Board of Governors should have its own staff redundancy scheme.

9.73. The Employment Rights (NI) Order 1996 outlines the terms under which employees can be made redundant. The Department for Employment and Learning (DEL) is responsible for Employment Relations Policy in relation to redundancies and employment rights. In addition, the Labour Relations Agency (LRA) has a Code of Practice in relation to Redundancy Consultation and Procedures which summarises the statutory provisions in employment legislation and gives practical guidance on redundancy related issues.

9.74. The Board of Governors has the following statutory duties:

- to make, and take responsibility for, decisions on redundancies
- to follow the redundancy scheme and to implement the procedures in that scheme

9.75. The Board of Governors are also responsible for:

- making every reasonable effort to avoid the need for a redundancy
- advising the staff and the full-time officials or nominees of the recognised unions, as soon as they have identified the possible need for a redundancy
- at the same time, appointing an appeals panel (normally comprising three governors)

## **Retirement Schemes**

### **Teachers' Premature Retirement Compensation Scheme**

9.76. The Teachers' Premature Retirement Scheme is a management tool which Boards of Governors can use to effect a qualitative improvement in the educational

provision in their schools. It allows teachers' employers to affect redundancies in the context of necessary organisational change and to retire teachers in the interests of the efficient discharge of the employer's function. It does not confer a right to early retirement on teachers. The Board of Governors is responsible for:

- decisions to release a teacher from employment on grounds of redundancy
- decisions, subject to the approval of the relevant body, to recommend a teacher for release on grounds of the efficient discharge of the employers function
- in both cases, subject to the approval of the relevant body, decisions to recommend compensation by way of added years

9.77. The maximum level of enhancement that may be awarded is set out within the terms of the Premature Retirement Scheme. Any action arising from this scheme should be taken on the initiative of the Board of Governors, and in accordance with advice from the Employing Authority.

9.78. The Department brought into effect on 30 April 2010 new premature retirement compensation regulations which have the effect of transferring to teachers' employers, all the costs associated with compensation for premature retirement, including the early payment of unreduced pension benefits.

#### **Premature Retirement: Efficient Discharge of the Employer's Function Scheme**

9.79. This Scheme should **not** be used in circumstances where **dismissal would otherwise be the normal and proper course of action (for example gross misconduct, or inefficiency)**. Nor should it be used where a teacher no longer meets the normal requirements as to health and physical capacity for teaching. Separate arrangements apply for retirement on grounds of ill-health. In relation to this scheme, the Board of Governors should:

- **not** offer this retirement option because a teacher wishes to retire early
- operate the scheme where a teacher's performance, although not having been found to give cause for concern under the agreed procedures, is below that which might be reasonably expected, for example in terms of methodology, lack of necessary specialist skills, relationships with the pupils or pressures arising from the implementation of new educational initiatives
- only use this scheme where the problems associated with the teacher's effectiveness and performance cannot be resolved adequately through training or support
- prior to offering the scheme, balance carefully the costs and advantages of premature retirement, consider any possible difficulties which are envisaged in recruiting a replacement (for example in shortage subjects) and consider any internal disruption which it may cause in the school
- identify clearly and unambiguously the reasons for application of the Efficient Discharge Scheme
- provide evidence which led to the conclusion there had been a significant decline in the teacher's effectiveness and/or motivation

- specify explicitly the required improvements
- specify how the pupils' needs and abilities would be better served by another teacher
- provide details of other strategies considered and deployed where there is evidence of a significant decline in teaching/managerial decline; including the provision of substantive records showing what action has been taken, during the previous 2 years by both the employer and the teacher to improve the quality of performance; this should include details of in service training or support, or redeployment within the school
- supply details of the outcome of other strategies deployed
- provide confirmation that consideration has been given to the possibility of the teacher voluntarily moving to a position of lesser responsibility and a full explanation as to why this option has not been considered appropriate
- give other appropriate reasons not specified above

9.80. The Board of Governors should be aware that all premature retirement proposals have significant financial implications. Further information is contained in the DE Circulars 2010/14 and 2015/05 Teachers' Premature Retirement Compensation Scheme and Termination of Employment on the Grounds of the Efficient Discharge of the Employers Function respectively.

### **Termination of Employment of Teachers on the Grounds of Ill Health or Capability**

9.81. The TNC Circular 2013/1 sets out procedures:

- for dealing with teachers who may no longer have the health or physical capacity for employment as a teacher
- for dealing with teachers whose attendance at work is such as to question whether they are capable of providing a regular and sustained service
- to be followed when a teacher makes a request for them to be considered for retirement on the grounds of permanent ill health

### **General**

9.82. The policies described in this chapter are not exhaustive. A full list is included in the Guidance section at the end of the chapter.

### **Employment Tribunals**

9.83. Employment tribunals hear complaints where employees have alleged discrimination against someone or have failed to respect their rights under employment law, for example unfair dismissal. A tribunal can order an employee to be re-engaged or reinstated and can award compensation. If the complaint is about a decision taken by the Board of Governors, the Board of Governors must be present before the tribunal to defend its action.



## **The Law**

### **Education Law**

Education (NI) Order 1986 – Article 68 and Schedule 14, Parts I and II (*Appointment of teachers to a controlled school*)

Education and Libraries (NI) Order 1986 – Article 69 as amended by Article 42 of the Education and Libraries Order 1993 (*Salaries and other terms and conditions of employment of teachers*)

Education and Libraries (NI) Order 1986 – Article 72 (*Redundancy payments to teachers in certain voluntary and grant maintained integrated schools*)

Education and Libraries (NI) Order 1986 – Article 88 (employment of non-teaching staff)

Education and Libraries (NI) Order 1986 – Article 101 (*power of DE to give Directions*) as amended and substituted by the 1989 Order

Education and Libraries Order 1993 – Article 42 (*Salaries and other terms and conditions of employment of teachers*)

Education Reform (NI) Order 1989 – Article 123 (*Schemes of Management for Schools: provisions relating to staff*)

Education Reform (NI) Order 1989 – Articles 148-149 (*Information and training for Boards of Governors and Training Programmes*)

Education Reform (NI) Order 1989 – Article 151 (*Review of performance of teachers*)

Education Reform Order (NI) 1989 – Article 153 (*Appointment of teachers*)

Education Reform Order (NI) 1989 – Article 158 (*Power of DE to give Directions*) substitutes a new Article 101 in the 1986 Order

Education Reform (NI) Order 1989 – Schedule 4 (*Provisions relating to the staff of schools with delegated budgets*)

Education (NI) Order 1998 – Articles 34 to 41 and Schedule 1 (*The General Teaching Council for NI*)

### **Education Regulations**

Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (NI) 1991 SR No132

Teachers' (Compensation for Redundancy and Premature Retirement) Regulations (NI) 2010

Teachers' Salaries Regulations (NI) 1993 SR No 318

Teachers' Salaries (Amendment) Regulations (NI) 1993 SR No 403

Teachers' Salaries (Amendment No 2) Regulations (NI) 1993 SR No 447

Teachers' Maternity and Parental Leave etc. Regulations (NI) 1999 SR No 471

Teachers' Maternity and Parental Leave etc. (Amendment) Regulations (NI) 2002 SR No 110

Teachers' Maternity and Parental Leave etc. (Amendment No. 2) Regulations (NI) 2002 SR No 135

Teachers' Superannuation Regulations (NI) 1998 SR No 333

Teachers' (Terms and Conditions of Employment) Regulations (NI) 1987 SR No 267

Teachers' (Terms and Conditions of Employment) Regulations (NI) 1988 SR No 299

### **Anti-Discrimination Laws**

Asylum and Immigration Act 1999

Disability Discrimination Act 1995 as amended (DDA)

EC Framework Directive for Equal Treatment in Employment and Occupations (2000/78/EC) - Article 15(2) (*exemption from non-discrimination religion and belief provisions the recruitment of teachers in schools in NI*)

Employment Rights (NI) Order 1996

Employment Equality (Sexual Orientation) Regulations (NI) 2003

Employment Equality (Age) Regulations (NI) 2006

Equal Pay Act (NI) Order 1970 as amended (EPA)

Equality (Disability, etc.) (NI) Order 2000

Fair Employment and Treatment (NI) Order 1998 as amended (FETO) (*exemption from non-discrimination religion and belief provisions in the recruitment of teachers in schools in NI*)

NI Act 1998

Race Relations (NI) Order 1997 as amended (RRO)

Sex Discrimination (NI) Order 1976 as amended (SDO)

## **Anti-Discrimination Statutory Codes**

Age Discrimination in NI – The Law and Good Practice for Employers

A Step by Step Guide to Monitoring – Monitoring your workforce and applicants in line with fair employment regulations

A Unified Guide to Promoting Equal Opportunities in Employment (A comprehensive statement on good employment practice)

Code of Practice on Equal Pay 1999 (ECNI)

Code of Practice for Employers for the Elimination of Racial Discrimination and the Promotion of Equality of Opportunity in Employment

Code of Practice for all Employers on the avoidance of Race Discrimination in recruitment while seeking to prevent illegal working (*published by the Home Office*)

Disability Code of Practice – Employment and Occupation (2005)

Disability Discrimination Code of Practice for Schools (2006)

Disability Discrimination Code of Practice – rights of access goods, facilities, services and premises [2003]

Eliminating Sexual Orientation Discrimination in NI– A Guide on the provision of goods, facilities, services and premises

Fair Employment in NI – Code of Practice 1989

Recruitment and Advertising – A Good Practice Guide

Removing Sex Bias from Recruitment and Selection – A Code of Practice 1995 (EOCNI)

Section 75 of the NI Act 1998 – Guide to Statutory Duties

Sexual Orientation Discrimination in NI – The Law and Good Practice

## **Guidance / DE Guidance**

DE Circular 2006/6 Child Protection: ‘Recruitment of people who work with children and young people in educational settings’

<https://www.education-ni.gov.uk/publications/circular-200606-recruitment-people-work-children-and-young-people-educational-settings>

DE Circular 2006/08: Child Protection ‘Training requirement for School Governors on staff recruitment and selection panels’

[Child protection: Training requirements for School Governors on staff recruitment and selection panels PDF 30 KB](#)

DE Circular 2006/09: Child Protection; 'Criminal background checking of staff in schools: programme to extend coverage'  
<https://www.education-ni.gov.uk/publications/200609-criminal-background-checking-staff-schools>

DE Circular 2006/25: Child Protection 'Vetting of School Governors'  
[Child Protection: Vetting of School Governors PDF 41 KB](#)

DE Circular 2008/03: Pre-employment Checking  
<https://www.education-ni.gov.uk/publications/circular-200803-pre-employment-checks>

DE Circular 2010/14: Teachers' Premature Retirement Compensation Scheme  
<https://www.education-ni.gov.uk/publications/circular-201014-teachers-premature-retirement-compensation-scheme>

DE Circular 2015/05: Termination of Employment on the Grounds of the Efficient Discharge of the Employers Function  
<https://www.education-ni.gov.uk/publications/circular-201505-termination-employment-grounds-efficient-discharge-employers-function>

DE Circular 2015/12: General Teaching Council for Northern Ireland (Registration of Teachers) (Amendment) Regulations (NI) 2015  
<https://www.education-ni.gov.uk/publications/circular-201512-gtcni-registration-teachers-amendment-regulations-ni-2015>

DE Circular 2015/18: Teachers' Pay and Allowances from 1 September 2014  
<https://www.education-ni.gov.uk/publications/circular-201518-teachers-pay-and-allowances-1-september-2014>

Guidance to Boards of Governors on the Formulation and Implementation of Salary Policy 2008  
<https://www.education-ni.gov.uk/publications/guidance-boards-governors-formulation-and-implementation-salary-policy>

The Teacher Education Partnership Handbook  
<https://www.education-ni.gov.uk/articles/teacher-education-partnership-handbook>

### **General Teaching Council for NI (GTCNI) Publication**

Teaching: the Reflective Profession  
[www.gtcni.org.uk/publications/uploads/document/GTCNI\\_Comp\\_Bmrk%20%20Aug%2007.pdf](http://www.gtcni.org.uk/publications/uploads/document/GTCNI_Comp_Bmrk%20%20Aug%2007.pdf)

## **JNC Circulars (available from the EA)**

### ***Support Staff: Discipline, Grievance, Harassment***

JNC Circular No 77            Statement and Code of Practice on Measures to Combat Harassment in the Workplace for Non-teaching staff in controlled and maintained schools third revision March 2007

### ***Support Staff: Equal Opportunities***

JNC Circular No 102        Equal Opportunities Policy revised October 2006  
JNC Circular No 103        Policy and Code of Practice on Employment of Persons with Disabilities

### ***Support Staff: Leave and Time off Provisions***

JNC Circular No 27        Special Leave  
JNC Circular No 31        Payment in Lieu for untaken Annual Leave  
JNC Circular No 46        Carry Over of Annual Leave  
JNC Circular No 63        Long Service Leave Arrangements Addendum April 2002  
JNC Circular No 63        Long Service Leave addendum  
JNC Circular No 117        Maternity Leave Provisions  
JNC Circular No 118        Paternity Leave Provisions  
JNC Circular No 119        Adoption Leave Provisions  
JNC Circular No 120        Parental Leave Provisions  
JNC Circular No 140        Annual Leave Entitlement wef 1 October 2006

### ***Support Staff: Miscellaneous***

JNC Circular No 19        Compensation for Loss or Damage to Staff Property due to Terrorist Attack  
JNC Circular No 22        Working with VDUs  
JNC Circular No 24        Scheme Relating to Facilities for Study for Approved Qualifications  
JNC Circular No 26        Payment to Employees in the Event of Death or Disablement due to Assault  
JNC Circular No 33        Smoking in the Workplace  
JNC Circular No 53        Classroom Assistants and other Term-time only staff in Schools (Secretaries and Technicians) Addendum issued August 2002  
JNC Circular No 84        Single Status Agreement  
JNC Circular No 97        Internet and Email Usage Policy  
JNC Circular No 124        Facilities for Industrial Relations Duties and Trade Union Activities

### ***Support Staff: Other Policies Applicable***

Anti-Fraud Policy  
Carer Leave Scheme  
Code of Conduct for Staff  
Code of Procedures on Recruitment and Selection  
Collective Disputes Procedure

Disciplinary Procedure  
Flexible Working Hours  
Gifts and Hospitality  
Grievance Procedure  
Health and Safety Policy and Statement  
Joint Declaration of Protection  
Pension/Policy Discretions  
Redundancy Procedure  
Sexual Harassment Policy  
Whistleblowing Procedure

### ***Support Staff: Pay and Allowances***

JNC Circular No 32	Pedal Cycle Rate of Mileage
JNC Circular No 121	Car Mileage Rates
JNC Circular No 142	Implementation of Job Evaluation for Classroom Assistants
JNC Circular No 156	Pay Rates 2008/09
JNC Circular No 157	Addendum First Aid Allowance 2008
JNC Circular No 158	Addendum Payment to Caretakers for Electoral Duties wef April 2008
JNC Circular No 159	Call-out payment for Maintenance Staff employed in the Transport Service April 2008
JNC Circular No 169	School Staff: School Meals Abatement

### ***Support Staff: Work Life Balance***

JNC Circular No 21	Job Sharing Scheme second revision March 2007
JNC Circular No 129	Career Breaks Scheme third revision September 2007

### **Issued by the Teachers Negotiating Committee (TNC)**

TNC Circular 2005/2 'Promoting a dignified Workplace'

<https://www.education-ni.gov.uk/publications/promoting-dignified-workplace>

TNC Circular 2005/5 'Alcohol and Drug Misuse Policy and Procedures for Teachers in Grant-Aided Schools'

<https://www.education-ni.gov.uk/publications/alcohol-and-drug-misuse>

TNC Circular 2007/5 'Disciplinary Procedures and Notes for Guidance'

<https://www.education-ni.gov.uk/publications/disciplinary-procedure>

Notes for guidance, TNC 2008/4 'Disciplinary Procedure Notes of Guidance'

<https://www.education-ni.gov.uk/publications/tnc-200804-disciplinary-procedure-teachers>

TNC Circular 2008/2 'Teacher Attendance Procedure'

<https://www.education-ni.gov.uk/publications/tnc-2008-2-teacher-attendance-procedure>

TNC Circular 2009/4 'Job Share Scheme'

<https://www.education-ni.gov.uk/publications/tnc-2009-4-job-share-scheme-teachers>

TNC Circular 2009/5 'Career Break Scheme Teaching Staff'  
<https://www.education-ni.gov.uk/publications/tnc-2009-5-career-break-scheme>

TNC Circular 2010/1 'Procedure for Handling Teacher Redundancies'  
<https://www.education-ni.gov.uk/publications/procedure-handling-teacher-redundancies>

TNC Circular 2013/1 'Termination of Employment of Teachers on the Grounds of Ill Health or Capacity'  
<https://www.education-ni.gov.uk/publications/tnc-circular-201301-ill-health-retirement-benefits-and-re-employment>

TNC Circular 2014/01 'Performance Review and Staff Development Scheme'  
<https://www.education-ni.gov.uk/publications/performance-review-and-staff-development-scheme>

TNC Circular 2014/2 'Teachers' Maternity Leave Scheme'  
<https://www.education-ni.gov.uk/publications/tnc-20152-teachers-maternity-leave-scheme>

TNC Circular 2014/3 'Teachers' Adoption Leave Scheme'  
<https://www.education-ni.gov.uk/publications/tnc-20154-teachers-adoption-leave-scheme>

TNC Circular 2014/4 'Teachers' Paternity Leave Scheme'  
<https://www.education-ni.gov.uk/publications/tnc-20153-teachers-paternity-leave-scheme>

TNC Circular 2014/6 'Grievance Procedure for Teachers, including Principals and Vice-Principals in Grant-aided Schools'  
<https://www.education-ni.gov.uk/publications/tnc-20146-grievance-procedure>

## 10. Pupil Admissions

This chapter explains open enrolment policy and the legislation including the duties and responsibilities of the Board of Governors that relate to the admission of pupils to mainstream schools. It also explains the Department's policy on transfer from primary to post-primary education.

### The Role of the Board of Governors

The role of the Board of Governors is to make arrangements for the admission of pupils to the school and approve the criteria to be applied when the school is oversubscribed. The Board of Governors must ensure that these arrangements comply with the timetables issued by the Department of Education and all appropriate legal requirements.

### Open Enrolment Policy

10.1. The policy of open enrolment enables parents to express their preferences for the schools that they wish their children to attend and enables schools to meet those preferences within the limits of their approved enrolment and admissions numbers. Where a school receives more applications than it has places available, it must select between applicants on the basis of the school's published admissions criteria. The criteria must therefore be capable of selecting between pupils down to and including the last available place.

### Policy on Transfer from Primary to Post-primary Education

10.2. Reflecting public support for academic selection to grammar schools, the Department supports the right of those schools wishing to use academic selection as the basis for admission of some or all of their pupils to do so. Academic selection has the potential to enable social mobility and gives every child an opportunity of gaining access to the most appropriate school to meet their needs and enhance their life chances.

10.3. The guidance published on 7 September 2016, includes reference to a recommended Free School Meal Entitlement (FSME) admissions criteria as a complementary measure to address directly this inequality. This recommended criterion is designed to ensure that FSME applicants gain admission at a rate proportionate to their rate of application.

### Roles and Responsibilities

#### Department of Education (DE)

10.4. DE is responsible for the open enrolment policy and legislation which includes the arrangements for the transfer of pupils from primary to secondary education. Guidance on the process of transfer from primary to post-primary education from September 2016 was published on 7 September 2016. This guidance confirms that DE



endorses the right of schools who wish to prepare pupils for academic selection to do so. It advises primary schools of what assistance they can make to help prepare pupils sitting transfer tests and removes any perceived threat to them in their work to support children as they transfer to post-primary school. This guidance on the transfer procedure arrangements is available on the DE website; the web links are listed at the end of this chapter.

10.5. DE continues to approve, as required by law (i) an enrolment number for each nursery school, (ii) an enrolment and an admissions number for each primary and post-primary school for each school year. These numbers are approved after consultation with the Board of Governors, the EA and in the case of Catholic maintained schools, with CCMS.

10.6. DE is required to calculate the enrolment number having regard to the legal standards relating to school premises and the teaching accommodation available for use by pupils at the school. In the case of a nursery school, the extent to which full time or part-time education is to be provided is also taken into account. The approved enrolment number determines the maximum number of pupils who may be enrolled in the whole school in any school year.

10.7. The admissions number is calculated on the basis of the enrolment number and the number of year groups in the school and in the case of primary schools the statutory limits on class size limits in the Foundation Stage (Years 1&2) and Key Stage 1 (Years 3&4). For information on class sizes in Years 1-4 see [DE Circular 2011/01](#). The approved admissions number determines the maximum number of pupils in the normal age group who may be admitted, that means to Year 1 in a primary school or to Year 8 (Form 1) in a post-primary school.

10.8. The Board of Governors may apply to DE for a temporary variation in either its enrolment number or its admissions number, for children of compulsory school age applying for admission to a primary school. DE considers each request on its merits after consultation with the relevant education interests.

10.9. The flexibility for temporary variations can be useful in resolving short time pressures on places in a particular area. However, it can lead to a school's actual pupil enrolment being significantly greater than its accommodation-based enrolment as calculated by DE. In such situations, DE considers general enrolment trends and begins to bring the school's enrolment back into line with the numbers appropriate for the school.

### **Education Authority (EA)**

10.10. The EA must make arrangements to enable parents to express their preferences for the schools that they wish their children to attend. Information is published for each school year about the particulars of the arrangements for the expression of parental preferences and for the admission of pupils to schools. The particulars must include in relation to each school:

- the school's enrolment and admissions numbers
- the criteria which the school will use to select children for admission in the event of the school being oversubscribed with applicants

This means that admissions criteria must be drawn up and approved by school Boards of Governors very early in the first term of the school year for publication in accordance with the timescales included in the open enrolment circulars mentioned below.

10.11. The EA is required to make arrangements to facilitate the establishment and operation of Independent Admissions Appeals Tribunals. These tribunals hear, consider and take decisions on parental appeals against the decision of a school not to admit their child. An appeal can be made only on the basis that the school's admissions criteria were not applied or were not correctly applied and that under the correct application of the criteria, the appellant would have been admitted.

## **School Boards of Governors**

10.12. The Board of Governors has a statutory duty to make arrangements for the admission of children to its school. Detailed information about the operation of open enrolment, including a timetable, is contained in the Circulars published on the DE website under:

- Schools and Infrastructure/School Admission Guidance:  
<https://www.education-ni.gov.uk/articles/school-admissions-guidance#toc-4>

10.13. Boards of Governors and Principals of primary and post primary schools are also required to 'have regard' to the Department's guidance on post-primary transfer policy which applies from 7 September 2016. The term 'have regard' is explained within the guidance. A further circular detailing the timetable for the operation of the admissions process issues annually.

10.14. It is important that schools adhere to the timetable for the open enrolment processes. Governors should also be aware of their obligations to verify applicant information in cases where there is general knowledge or belief of a problem with applicant information. Further information is available in the circulars published on the DE website.

## **Duties of School Boards of Governors**

### **Compliance with Parental Preference**

10.15. Under open enrolment, the Board of Governors is required to admit all pupils whose parents have expressed a preference for their children to be educated at the school but only where the number of applicants does not exceed the school's approved admissions number.

10.16. The Board of Governors of a primary school is permitted to vary its approved admissions number within the limits set out in the DE Circular: Open Enrolment in Primary Schools (the most recent version will be available on the DE website), provided the variation can be contained within its approved enrolment number. Any other variations are subject to the prior approval of DE.

## **Compliance with DE admissions and enrolment numbers**

10.17. The Board of Governors has a legal obligation under Article 10(2) of the Education (NI) Order 1997 not to admit children in excess of the admissions and enrolment numbers approved by DE for the school. Also, it must ensure that the number of registered pupils at the school at any time does not exceed the school's admissions or enrolment numbers.

10.18. When calculating the number of registered pupils admitted to the school for this purpose, any pupil admitted in compliance with a School Attendance Order, or a direction of either an appeal tribunal, the Exceptional Circumstances Body or the EA, should not be counted in relation to the school's admissions or enrolment numbers for the year in which they are admitted. They are counted for subsequent years. Pupils with a statement of special educational needs are not counted within a school's admissions and enrolment numbers at any stage.

## **Compliance with a School Attendance Order**

10.19. The Board of Governors is required by law to admit a child in compliance with a School Attendance Order where the school is named in that order as the school that the child should attend.

## **Compliance with a direction of the Education Authority**

10.20. The Education Authority has the power under Article 42 of the Education (NI) Order 1996 (after consultation) to direct a school to admit a child in its area, when the child has been expelled from another school or has been refused admission to the other schools within a reasonable distance from the child's home. The Board of Governors must by law comply with the direction.

## **Compliance with a Statement of Educational Needs**

10.21. When the EA makes a statement of special educational needs for a child, it must comply with the parents' preference of school, unless the school is unsuitable for the child or the placement would be incompatible with the efficient education of the other children with whom the child would be educated, or with the efficient use of resources. Before naming a school in the statement, the EA must consult the Board of Governors. However, once a school is named in the statement, the Board of Governors must by law admit the child.

## **Admissions Criteria**

10.22. When the number of applications for admission to a school exceeds the places available at the school, the places must be allocated using the school's admissions criteria. The Board of Governors is required to draw up, and may from time to time amend, the criteria to be applied in selecting children for admission when the school is oversubscribed.

10.23. When drawing up or amending the criteria, the Board of Governors of a controlled school must consider any representations made to it by the EA. In the same

way, the Board of Governors of a Catholic maintained school must consider any representations made to it by CCMS.

10.24. The admissions criteria must:

- be capable of selecting between pupils down to and including the last available place
- provide for all children resident in Northern Ireland at the time of their proposed admission to be selected for admission before any child not so resident

10.25. The criteria for nursery and primary admissions must be compliant with:

- The Pre-School Education in Schools (Admissions Criteria) (Amendment) Regulations (NI) 2012
- the Primary Schools (Admissions Criteria) Regulations (NI) 1997 which apply to all primary schools

10.26. The Board of Governors of all post-primary schools must 'have regard' to the content of the Department's guidance on post-primary transfer and in particular the recommendations relating to admissions criteria. The Secondary Schools (Admissions Criteria) Regulations (NI) 1997 (SR 1997 No 439) no longer apply to post-primary admissions.

10.27. Once published the criteria cannot be amended without the specific approval of the Department.

10.28. It should also be noted that the admissions criteria used by a post-primary school for selecting between applications from pupils in other post-primary schools, may be different from the criteria to be used for selecting between applications from pupils transferring from primary education.

### **Delegation**

10.29. Many of the Board of Governors' responsibilities relating to admissions (including the drawing up and application of the admissions criteria) may be delegated to an Admissions Committee but the admissions criteria should be agreed and approved by the Board of Governors before they are published and applied.

### **Refusal to Admit a Pupil**

10.30. For admissions to year groups other than the normal years of admission to primary schools and post-primary schools at Years 1 and 8, the Board of Governors may refuse to admit a child to the school in cases where it is considered that admission would prejudice the efficient use of resources. In doing so, it should be noted that the Board of Governors could be required to provide evidence to support its decision in the event of a parental complaint. DE has established a parents' complaint process to consider the reasonableness of a school's use of this option. DE issued revised guidance to schools on the complaints procedure in 2010, a copy of which is available on the DE website.

10.31. The Board of Governors of a grammar school should note that the provisions in the open enrolment legislation which permitted them to refuse a child admission to the school on the grounds that (i) it would be detrimental to the educational interests of the child and (ii) the academic ability of the child is not of a standard equivalent to that of the pupils with whom he or she would be taught have been repealed. This means that with effect from the admissions process in 2010 onwards, grammar schools have no longer had the power to refuse admission on these grounds.

### **Publication of Information**

10.32. The Board of Governors must publish the information required by the School Information and Prospectuses Regulations (NI) 2003 not later than 6 weeks before the date by which parents must express their school preferences. The information for a nursery school must include:

- the arrangements for the admission of pupils to the school
- the school's admissions criteria
- the arrangements for parents of prospective pupils to visit the school

The information for a primary or a post-primary school must include:

- how parents can access the information the EA is required to publish about the arrangements for the admission of pupils to schools
- the arrangements for parents of prospective pupils to visit the school
- the number of pupils who applied and the number admitted to the school in the previous 3 years

10.33. More detailed guidance about the information required to be published by school Boards of Governors is in DE Circular 2003/15 Education (School Information and Prospectuses) Regulations (NI) 2003 <https://www.education-ni.gov.uk/publications/circular-200315-education-regulations-2003>.

### **Appeals against Admission Decisions**

10.34. Parents may appeal to an independent tribunal against the decision of a Board of Governors to refuse their child admission to the school, on the grounds that the school's admissions criteria were either not applied, or were not applied correctly and if they had been correctly applied the child would have been admitted to the school. If the tribunal finds in the parents' favour, it will allow the appeal and direct the Board of Governors to admit the child to the school. The Board of Governors has a statutory duty to comply with the direction given by the tribunal.

10.35. Parents may also submit an application to the Exceptional Circumstances Body (ECB) in situations where their child has not been admitted to the school and they consider that, for exceptional reasons, they must attend. This facility is available only in respect of admissions to post-primary schools (Years 8-12). The Board of Governors of the school specified in the application form will be afforded the opportunity to provide written or oral representation to the panel hearing a case, but it is not obliged to do so. Hearings may proceed regardless of whether or not the Board of Governors comments on an application.

10.36. In respect of all of the applications that it hears, the panel will decide either:

- that the child who is the subject of an application, does have exceptional circumstances that require their admission to the post-primary school that his/her parents have specified. If this is the case, the panel will direct the specified school to admit the child
- that the child who is the subject of an application, does not have exceptional circumstances that require their admission to the post-primary school that their parents have specified. If this is the case, the panel will not direct the specified school to admit the child

## **Additional Information**

### **Duty on Parents**

10.37. The parents of children of compulsory school age are required by law to ensure that their children receive full-time education suitable to their age, ability and aptitude and to any special educational needs that they may have, either by regular attendance at school or otherwise. The EA is responsible for ensuring that parents carry out this duty.

### **School Starting Age**

10.38. Where a child reaches the age of four on or between 1 September and 1 July in the same school year, the child has to start school at the beginning of the next school year. Where a child's birthday falls on or between 2 July and 31 August in the same calendar year, the child has to start school in the September immediately after his fifth birthday. All pupils must complete 12 years full-time education at school.

### **Age of Transfer from Primary to Secondary Education**

10.39. A pupil with an eleventh birthday on or between 1st September and 1st July in the same school year must transfer to a post primary school with effect from the start of the next school year. Where a pupil's eleventh birthday falls on or between 2nd July and 31st August in the same calendar year, he/she must transfer to a post primary school with effect from the start of the school year following his or her 12th birthday.

10.40. The Board of Governors of a pupil's primary school may decide whether a pupil should transfer to post primary education a year earlier or a year later than the normal age; details of these arrangements are contained in DE Circular 1996/24

[www.education-ni.gov.uk/publications/circular-199624-guidance-arrangements-transfer-pupils-primary-secondary-education-other](http://www.education-ni.gov.uk/publications/circular-199624-guidance-arrangements-transfer-pupils-primary-secondary-education-other).

### **Transfers between Schools**

10.41. Parents may apply to transfer their child to another school at any stage of the child's compulsory education. Such applications arise from time to time due to a variety of different circumstances, including a relocation of the family home. Also, a pupil over compulsory school age may apply for admission to a different school to undertake A level studies.

## **The Law**

### **Primary Legislation**

Education (NI) Order 1996 - Article 16(5)(b) and the Special Needs Code of Practice, paragraph 4.44 (*statement of educational needs*)

Education (NI) Order 1996 - Article 27 (4) (*school attendance order*)

Education (NI) Order 1996 - Article 42 (*direction by EA to admit child to specified school*)

Education (NI) Order 1997 - Articles 9 to 13 & 15 to 17 (*admission of children to grant-aided schools*)

Education (NI) Order 1998 - Articles 22 to 33 (*admission of children to pre-school education at grant-aided schools*)

Education and Libraries (NI) Order 2003 - Article 21 (*amends Article 23 of the 1998 Order*)

Education (NI) Order 2006 - Article 27 (*admissions to grammar schools*)  
Note: this repeals Article 14 and amends Article 13 and 15 of the 1997 Order.

Education (NI) Order 2006 - Article 28 (*admissions criteria*) Note: this replaces Article 16 of the 1997 Order and applies to admissions in the 2010/11 school year onwards.

Education (NI) Order 2006 - Article 29 (*admissions to secondary school: exceptional circumstances*) Note: this also applies to admissions in the 2010/11 school year onwards.

Education (NI) Order 2006 - Article 30 (*guidance as to admissions*) Note: this makes provision for the issue of admissions guidance to which boards, schools and appeal tribunals must have regard.

### **Subordinate Legislation**

The Pre-School Education in Schools (Admissions Criteria)(Amendment) Regulations (NI) 2012

Primary Schools (Admissions Criteria) Regulations (NI) 1997 (SR 1997 No 438)

The School Admissions (Exceptional Circumstances) Regulations 2010 (SR 2010 No19)

Class Sizes in Primary Schools Regulations (NI) 2000 (SR 2000 No. 27)

### **Guidance**

All admissions related circulars are published on the DE website:

<https://www.education-ni.gov.uk/articles/school-admissions-guidance>

Post-primary transfer guidance from September 2016

<https://www.education-ni.gov.uk/sites/default/files/publications/education/ED1%2016%2081506%20%20Transfer%20Guidance%202016%20-%20Guidance%20to%20Primary%20School%20Princi....pdf>

DE Circular Open enrolment in Post Primary Schools

<https://www.education-ni.gov.uk/publications/circular-201615-procedure-transfer-primary-post-primary-education>

DE Circular 2014/07: Open Enrolment in Nursery Schools and Nursery Classes in Primary Schools:

<https://www.education-ni.gov.uk/publications/circular-201407-open-enrolment-nursery-schools-and-nursery-classes-primary-schools>

DE Circular 2016/17 Open Enrolment in Primary Schools (revised 13 September 2017)

<https://www.education-ni.gov.uk/sites/default/files/publications/education/Final%20version%20Open%20Enrolment%20in%20Primary%20Schools%20%28Revised%2013%20September%202017%29.pdf>

[DE Circular 2017/17 Open Enrolment in Nursery, Primary and Post Primary Schools - timetables](#)

The following guidance is also relevant:

DE Circular 2003/15: Education (School Information and Prospectuses) Regulations (NI) 2003.

<https://www.education-ni.gov.uk/publications/circular-200315-education-regulations-2003>

DE Circular 2011/01: Class Sizes for Pupils in Years 1-4 (Foundation Stage and Key Stage 1).

<https://www.education-ni.gov.uk/publications/circular-201101-class-sizes-pupils-years-1-4-foundation-stage-and-key-stage-1>

Equality Commission for NI: Disability Discrimination Code of Practice for Schools

[www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/SENDCoPforSchools2006.pdf](http://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/SENDCoPforSchools2006.pdf)

School starting age – a guide for parents (published by the Education Authority in October 2015)

<https://www.education-ni.gov.uk/publications/school-starting-age-guide-parents>



## 11. Religious Education and Collective Worship

This chapter explains the duties of the Board of Governors in relation to the provision of religious education and collective worship in a grant-aided school.

### The Role of the Board of Governors

The role of the Board of Governors is to ensure that there is provision for:

- religious education in the curriculum
- collective worship through school assemblies
- pupils and teachers to be exempted from such provision in accordance with legal requirements

### Religious Education

11.1. The Boards of Governors of all grant-aided schools have a statutory duty to ensure that provision is made for religious education in the curriculum. The programme for religious education must be in line with the core syllabus for religious education specified by DE, which can be accessed on the Curriculum and Assessment page of the DE website. Schools are then free to build upon this in a way that best suits the needs of their pupils and the ethos of the school.

11.2. The Board of Governors is responsible for ensuring that:

- in a controlled school, the programme of religious education is undenominational
- the core syllabus for religious education as specified by DE, is taught in the school
- the school is accessible to pupils of all religious denominations for teaching in subjects other than religious education
- no pupils will be excluded directly or indirectly from the other advantages provided by the school
- pupils are partly or wholly excused from attendance at religious education if their parents make such a request
- there is no variation in payments from public funds in respect of a pupil because of their non-attendance at religious education
- Ministers of religion and other suitable persons, including teachers, to whom parents do not object, are given reasonable access at convenient times to pupils other than in nursery and special schools, to provide religious education according to the tenets of a particular religious denomination or otherwise
- Ministers of religion and other suitable persons, including teachers, to whom parents do not object, are given reasonable access at convenient times to pupils other than in nursery and special schools, to inspect and examine the religious education provided

- teachers who request part or whole exemption from teaching religious education, are granted it provided the request to the Board of Governors is made solely on the grounds of conscience
- teachers who are so exempted by the Board of Governors, are not paid at a lesser rate or deprived of, or disqualified from, promotion or any other advantage because of this exemption

### **The Inspection of Religious Education**

11.3. When a school is being inspected, the inspectors will not include religious education classes in the lessons visited except with the explicit written agreement of the Board of Governors of the school.

### **Collective Worship**

11.4. School Boards of Governors have a statutory duty to ensure that the school day includes collective worship through one or more pupil assemblies. At an assembly, the Board of Governors should make arrangements to ensure that:

- pupils are partly or wholly excused from attendance from acts of worship if their parents make such a request
- there is no variation in payments from public funds in respect of a pupil because of their non-attendance at collective worship
- teachers who request part or whole exemption from conducting or attending collective worship, are granted it provided the request to the Board of Governors is made solely on the grounds of conscience
- teachers who are so exempted by the Board of Governors, are not paid at a lesser rate or deprived of, or disqualified from, promotion or any other advantage because of this exemption

### **Complaints about Religious Education or Collective Worship**

11.5. In the event of a complaint that the Board of Governors has acted or is proposing to act unreasonably with respect to the exercise of its powers or the performance of its duties relating to religious education or collective worship, the complaint will be considered by an Independent Complaints Tribunal. This tribunal will be established by the EA.

## **The Law**

### **Primary Legislation**

The Education and Libraries (NI) Order 1986 – Article 21 (*religious education and collective worship in controlled and voluntary schools, other than nursery or special schools*)

The Education and Libraries (NI) Order 1986 – Article 22 (*duties of teachers in controlled schools as to collective worship and religious education*)

The Education and Libraries (NI) Order 1986 – Article 102(7) (*inspection of educational and other establishments by Department*)

The Education (NI) Order 1996 – Article 25 (*religious education in special schools*)

The Education (NI) Order 2006 – Article 25(2) (d) (*complaints relating to collective worship*)

The Education (NI) Order 2006 – Article 11 (*core syllabus for religious education*)

The Education (Core Syllabus for Religious Education) Order (NI) 2007

### **Subordinate Legislation**

The Primary Schools (General) Regulations (NI) 1973 (S.R. 1973 No.402) – Regulation 21(4)

The Secondary Schools (Grant Conditions) Regulations (NI) 1973 (S.R.1973 No.403) – Regulation 10

### **Guidance**

Further information on religious education can be accessed on the Curriculum and Assessment page of the DE website at:

<https://www.education-ni.gov.uk/publications/religious-education-core-syllabus>

## 12. Children With Special Educational Needs

This chapter explains DE policy and legislation and the role and responsibilities of the Education Authority (EA) and the Boards of Governors of mainstream schools in relation to pupils with special educational needs (SEN).

### The Role of the Board of Governors

The role of the Board of Governors of a mainstream school is to exercise its functions in relation to the school with a view to ensuring that provision is made for registered pupils with special educational needs. The Board of Governors has a statutory duty to:

- take account of the provisions in the DE Code of Practice on identifying and assessing special educational needs and the Supplement to the Code
- ensure that the necessary special educational provision is made for pupils identified with SEN and that parents are notified of their child's special needs
- maintain and operate a policy on SEN
- ensure that where a registered pupil has special educational needs, those needs are made known to all who are likely to teach them
- ensure that the teachers in the school know the importance of identifying those registered pupils with SEN and of providing appropriate teaching
- allocate funding for special educational needs and disability
- prepare and take forward a written accessibility plan

### DE Policy and Legislation

12.1. All schools are involved in the provision of special education and the majority of pupils with special educational needs will be catered for in mainstream schools. Inclusion of Children with SEN into mainstream settings is a key tenet of the Department of Education's policy.

12.2. The law governing children with special educational needs is contained in Part II of the Education (NI) Order 1996 and Parts II and III of the Special Educational Needs and Disability (NI) Order 2005 (SEND0) and the Special Educational Needs and Disability Act (NI) 2016.

12.3 The 1996 Order explains that a child has 'special educational needs', if he or she has a learning difficulty which calls for special educational provision to be made. A child has a 'learning difficulty' if:

- they have significantly greater difficulty in learning than the majority of children of their age

- they have a disability which either prevents or hinders them from making use of educational facilities of a kind generally provided for children of their age in ordinary schools
- they are under compulsory school age but is likely to fall within category i. or ii. above when they are of compulsory school age

12.4. 'Special educational provision' is defined in law as educational provision for a child which is additional to, or otherwise different from, the educational provision made generally for children of his or her age at ordinary schools.

12.5 Special educational provision can be made in different ways. It can mean extra help for a child being taught in class or it can involve teaching the child in a specially resourced Learning Support Centre attached to a mainstream school, or in a special school. In some cases, the needs of the child may be complex or severe and require the EA to make a statutory assessment based on specialist advice. SENDO strengthened the right of children with SEN to a mainstream education as well as introducing further services for parents and, for the first time permitting claims of disability discrimination in schools to be heard before the Special Educational Needs and Disability Tribunal.

### **DE Code of Practice**

12.6. The law enables DE to issue a Code of Practice on identifying and assessing SEN. The SEN Code, which was issued on 1 September 1998 to every school, sets out detailed guidance on all aspects of providing for special educational needs in mainstream and special schools. As a result of SENDO, the Department introduced a Supplement to the Code in 2005. All school Boards of Governors, as well as the EA must take account of the Code and the Supplement.

### **The Role of the Education Authority**

12.7. The EA is required to determine and to keep under review a policy in relation to special educational needs provision, after consultation with relevant interests including CCMS and the Boards of Governors of grant-aided schools.

### **Assessments**

12.8. The EA has responsibility for formally assessing children with special educational needs who may need a statement of SEN. A child can be referred to the EA for assessment by the parents. A school Principal may also ask the EA to assess a child who is considered by the school to need a statutory assessment. The EA must decide whether a statutory assessment is necessary and inform the parents. The Code of Practice contains guidance on the statutory assessment process and on the involvement of parents.

### **Statements of SEN**

12.9. The statement made by the EA identifies all the child's special educational needs and the arrangements needed to meet those needs, including the school placement. Parents can express their preference for the school that they wish their child to attend.

Before naming a school in the statement, the EA must consult the Board of Governors. The Board of Governors is required to admit the child with a statement which names its school.

## **Appeals**

12.10. The Special Educational Needs and Disability Tribunal for Northern Ireland may consider an appeal from parents against:

- a decision of the EA, after making an assessment, not to make a statement of the child's special educational needs
- the content of the statement of the child's special educational needs in relation to the assessment, the special educational needs provision or the omission of a named school when the statement is first made, where the assessment or the special educational needs provision in the statement is amended or where, after conducting an assessment, the EA decides not to amend the statement

Further information about such appeals is contained in the booklet 'How to Appeal' which may be obtained from the Tribunal, by application to:

Tribunal  
2nd Floor  
Royal Courts of Justice  
Chichester Street  
BELFAST  
BT1 3JF

Telephone: 0300 200 7812

Email: [tribunalsunit@courtsni.gov.uk](mailto:tribunalsunit@courtsni.gov.uk)

12.11 Parents may also now make a claim of disability discrimination and further information on this, 'Disability Discrimination in Schools' may also be obtained from the Tribunal.

## **Responsibilities of the Board of Governors**

### **Mainstream Schools**

12.12. The Board of Governors must use its best endeavours, in exercising its functions in relation to the school, to secure that if any registered pupil has special educational needs, the special educational provision which their learning calls for is made.

12.13. The Board of Governors, in consultation with the Principal, decides the school's policy in relation to special educational needs, both for children with statements and for those without. It must ensure that a special needs policy is prepared, kept under review and implemented. This may require consultation with the EA and the Boards of Governors of other grant-aided schools for the purpose of co-ordinating provision for SEN pupils. This policy must be compatible with the statutory provisions relating to education (including, in particular, those relating to children with special educational needs).

12.14. In exercising its functions in relation to the school, the Board of Governors must have regard to its SEN policy. This means that it must set up appropriate staffing and

funding arrangements and oversee the school's work in relation to SEN. The Board of Governors may establish a committee of its members to monitor the school's work for children with special educational needs.

12.15. Those concerned with making special educational needs for a registered pupil, must secure that the pupil engages in the activities of the school together with the other children who do not have special educational needs. That is, so far as this is compatible, with the pupil receiving appropriate special educational needs provision and with the provision of efficient education for the other pupils with who they are educated and also with the efficient use of resources.

### **Accessibility Plans**

12.16. In addition, the Board of Governors of a grant aided school has a statutory duty to prepare a written Accessibility Plan the purpose of which is for:

- increasing the extent to which disabled pupils can participate in the school's curriculum
- 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
- improving the delivery to disabled pupils within a reasonable time and in ways which take account of their disabilities, and any preferences expressed by them or their parents and information which is provided in writing for pupils who are not disabled

12.17 In preparing an accessibility plan, the Board of Governors shall have regard to the need to allocate adequate resources for implementing the plan; to ensure it is implemented and kept under review; and to ensure the school's annual report includes information on its accessibility strategy for disabled pupils and its accessibility plan.

### **Admission of Pupils with SEN without a statement to mainstream schools**

12.18. The Board of Governors should not refuse to admit a child because it considers that its school cannot cater for pupils with special educational needs. Pupils with special educational needs, but without statements, must be treated as fairly as all other applicants on the basis of the school's published admissions criteria. A child with special educational needs should not be refused admission on the grounds that they do not have a statement or are being currently assessed.

### **Admission of Pupils with Statements to Mainstream Schools**

12.19. Parents may express a preference for the mainstream school which they wish their child to attend. The EA must comply with that preference unless the school is unsuitable for the child's age, ability, aptitude or special educational needs, or the placement would be incompatible with the efficient education of the other children with whom the child would be educated, or with the efficient use of resources. Before naming a school in the statement, the EA must consult the Board of Governors. Once a school is named in the statement, the Board of Governors must admit the child.

## **Admissions to Special Schools**

12.20. Most admissions to special schools (not established in a hospital) are determined by a statement of special educational needs. Where parents express a preference for a particular grant aided school, the EA must name the parents' preferred choice of school in the child's statement unless the school is unsuitable to the child's age, ability or aptitude or his/her SEN; or the child's inclusion at the school would be incompatible with the efficient education of other pupils or the efficient use of resources. Before naming a school in the statement, the EA must consult the Board of Governors. Once a school is named in the statement, the Board of Governors must admit the child.

12.21 A child without a statement of special educational needs may also be admitted to a special school for the purpose of assessment, or in specific circumstances. Pupils may only be admitted to a special school established in a hospital where there is a need for hospital treatment.

## **Teachers in Mainstream Schools**

12.22. The Code of Practice requires the Board of Governors of a mainstream school to designate a member of staff at the school, to be known as the special educational needs co-ordinator (SENCO). The SEN Code of Practice says the SENCO is responsible for:

- the implementation of the school's SEN policy
- working with and advising teachers
- co-ordinating the teaching provided for children with special educational needs and overseeing the records of such pupils
- maintaining contact with parents of SEN pupils and contributing to the in-service training of staff
- working with external agencies, including the educational psychology service

12.23 In a small school, the Principal or Vice-Principal may be the SENCO. In a larger school, another teacher may be the SENCO and there may be a wider learning support team. The Board of Governors and the Principal must think carefully about the SENCO's role in the context of the Code of Practice and the resources available to the school.

## **The Statutory Curriculum**

12.24. The statutory curriculum applies to pupils with special educational needs, but may be changed or not applied in specific cases. Teachers need to set suitable learning challenges for all pupils, respond to their diverse needs and overcome potential barriers to learning and assessment for individuals and groups of pupils.



## **Finance**

12.25. Pupils with special educational needs may require extra help. The cost of extra help for pupils without statements who attend mainstream schools is met from the school's budget allocation.

## **The Law**

Education (NI) Order 1996, Part II Articles 3-28 and

The Special Educational Needs and Disability (NI) Order 2005 - Article 13-18

Special Educational Needs and Disability Act (Northern Ireland) 2016

## **Guidance**

Code of Practice on the Identification and Assessment of Special Educational Needs

<https://www.education-ni.gov.uk/publications/code-practice-identification-and-assessment-special-educational-needs>

Supplement to the Code of Practice

<https://www.education-ni.gov.uk/publications/code-practice-identification-and-assessment-special-educational-needs>

DE Circular 2009/03: Regulations on use of work enhancements where students with disabilities have been granted exemptions from one or more components of an examination

<https://www.education-ni.gov.uk/publications/de-circular-200903-regulations-use-mark-enhancements-examinations-cases-where-students-disabilities>

DE Circular 2009/12: Every School a Good School: Way Forward on SEN

<https://www.education-ni.gov.uk/articles/review-special-educational-needs-and-inclusion>

## 13. Pupil Child Protection and Safeguarding

This chapter explains the role and responsibilities of Boards of Governors in relation to the pastoral care and protection of registered pupils at grant-aided schools.

### The Role of the Board of Governors

One of the roles of the Board of Governors is to ensure that the school's pastoral care arrangements protect the pupils from harm, safeguard their health and welfare and support their learning and development.

The Board of Governors has a statutory duty to:

- safeguard and promote the welfare of registered pupils at the school at all times when the pupils are on school premises or in the lawful control or charge of a member school staff
- decide on the measures to be taken by all persons associated with the school to protect pupils from abuse, whether at school or elsewhere, and review them from time to time
- to have measures in place within their discipline policies to prevent bullying

13.1. All schools are in a unique position to promote and safeguard the welfare of children and young people who are their pupils. For this reason, the Department regards the role of schools in safeguarding children as paramount and has in place robust arrangements to support schools in this work.

13.2. This approach is underpinned by international and domestic legislation relating to children's welfare and protection. Article 19 of the United Nations Convention on the Rights of the Child, provides that children have "the right to be protected from all forms of physical and mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse by those looking after them". Article 3 of that Order established that; '*The best interests of children must be the primary concern in making decisions that may affect them. All adults should do what is best for children. When adults make decisions, they should think about how their decisions will affect children*'. Also relevant are:

- Articles 34 and 36 : Governments should protect children from all forms of exploitation and;
- Article 39: Children who have been harmed should receive help to recover and reintegrate into society

The Children (NI) Order 1995 provides for the welfare of the child to be the paramount consideration in specific court proceedings and Boards of Governors have specific statutory responsibilities under education legislation to safeguard and promote the welfare of registered pupils.

The Safeguarding Board Act NI (SBNI) 2011 established the Safeguarding Board for NI with a remit to co-ordinate and ensure the effectiveness of what is done by each person or body represented on the SBNI to safeguard and promote the welfare of children. s. Further, the Children's Services Co-Operation Act (2015) established a requirement that *'Every Children's Authority must, so far as is consistent with the proper exercise of its children functions, co-operate with other children's authorities and other children's service providers in the exercise of those functions'*.

13.3. Collectively, all the policies and arrangements which schools have in place to keep pupils safe, promote physical and mental health and general welfare, are described as the pastoral care system. In recent years this aspect of a school's activity has been given a much stronger focus: some of this has been driven by failures of the past, for example in areas of child protection and more recently in recognition that pupils will not achieve good educational outcomes if they are experiencing stress and are unsupported in the school environment.

13.4. This Chapter covers an overview of the pastoral care and welfare system and two key elements – child protection arrangements and health promotion activity. Related policies in areas such as safety on educational visits and pupil behaviour and discipline, and safety are covered in chapters 14 and 15.

## **Pastoral Care System**

13.5. Through its pastoral care arrangements and provision and through its preventative education curriculum, a school demonstrates its continuing concern for the personal and social development of all its pupils, regardless of age or ability, as individuals and as secure, successful and fully participating members of the school and its wider community. Pastoral care is also concerned, in the post-primary school, with preparing pupils for the demands and challenges of adult and working life. Pastoral care is at its most effective when it is all pervasive and fully integrated into the school's teaching and non-formal learning practices, daily routines, its curriculum and its extracurricular activities.

## **Statutory Duty of Board of Governors**

13.6. The Board of Governors of a grant-aided school has a statutory duty, under Article 17 of the Education and Libraries (NI) Order 2003, to safeguard and promote the welfare of registered pupils at the school at all times when:

- on the premises of the school
- in the lawful control or charge of a member of the staff of the school

This duty does not apply to pupils for whom accommodation is provided by the Board of Governors of a voluntary school, as an equivalent statutory provision is made by Article 176 of the Children (NI) Order 1995.

13.7. The outworking's of the Entitlement Framework may mean that some schools will have pupils attending from other schools. The Board of Governors must safeguard and promote the welfare of all pupils attending its school, whether registered or not, when they are on the premises of the school or in the lawful control or charge of a member of school.

13.8. Pupil welfare embraces all aspects of school life through the pastoral care system, preventative education curriculum, child protection, pupil behaviour, staff code of conduct, health and well-being of staff and pupils, physical safety and security. Boards of Governors have a responsibility to take an active interest in and to regularly review, all aspects of their schools' activities that promote pupil welfare.

### **Pastoral Care and School Ethos**

13.9. The quality of pastoral care influences the whole-school ethos. It is of crucial importance in creating an atmosphere in which all young people feel secure, know they are valued as individuals and encouraged in their learning, growth and social development in a healthy and safe environment. While Boards of Governors, principals and members of senior management have primary responsibility for the care and welfare of pupils, all school staff, have a responsibility for pastoral care and welfare. The management arrangements within schools should enable all staff to contribute effectively to establishing and maintaining a climate which is characterised by good relations and mutual respect inside and outside the classroom.

### **Pastoral Care Provision**

13.10. Pastoral care provision will differ from school to school. The actual provision will include the way in which pupils are equipped to cope with personal challenges through the curriculum on offer, the systems for monitoring of pupils' academic progress and wellbeing and the range of support available within the school to pupils experiencing difficulties.

### **Curriculum**

13.11. The curriculum, offered by all schools, will equip young people to deal with the challenges they face in life. It includes Personal Development & Mutual Understanding at primary level and Learning for Life and Work at post-primary level. Both provide opportunities to develop resilience, promote positive mental and emotional health among young people. Throughout their schooling, children and young people have to deal with a wide range of personal and social issues that affect them, such as relationships, working with others, sexual orientation and behaviour, gender identity,, drugs, smoking, alcohol and other health-related issues. To do so effectively, requires them to have opportunities provided through the curriculum to discuss and explore such issues, so that they are able to make good choices and decisions.

13.12. Schools are free to supplement this part of the curriculum they offer by either, using resource materials prepared by agencies or organisations external to the school or by using individuals or staff from these agencies or organisations to take lessons or learning programmes. This is normally done where a specialist expertise, for example medical knowledge, is helpful in dealing with a particular issue or where an agency has a relevant expertise through its normal business.

### **Support for Vulnerable Pupils**

13.13. A pupil may, at any time, experience difficulties in their personal and social circumstances which impair their ability to learn. Schools' staff should be alert to the

signs of distress and equipped to respond appropriately. The pastoral care system will include the support which a school offers pupils at vulnerable times, such as mentoring or counselling provided either by school staff or external experts.

13.14. The Education Authority's pupil support services are available to all schools. Post-primary aged pupils also have access to the Independent Counselling Service for Schools (ICSS). This service is funded by the EA and is available to all grant aided post-primary schools or special schools with post-primary aged pupils. In the event of a critical incident primary schools can also access the ICSS service.

### **Derrytrasna Pastoral Care Award**

13.15 In 2014 a new annual pastoral care award was created by the Department in collaboration with the Public Health Agency (PHA), the 'Derrytrasna Pastoral Care Award', and is named after the school that inspired the award, St Mary's Primary School, Derrytrasna. The award seeks to recognise those school communities that have demonstrated exceptional co-operative effort in supporting the pastoral care of pupils and their families.

The online nomination form can be found at:

<https://www.education-ni.gov.uk/articles/derrytrasna-award-pastoral-care>

### **Derrytrasna Pastoral Care Award Guidance**

Examples of standard or 'normal' expectations of school pastoral care are that:

- the school demonstrates its concern for the personal and social development of all its pupils, regardless of age or ability, as individuals and as secure, successful and fully participating members of the school and its wider community
- in post-primary schools, the school's pastoral care is also concerned with preparing pupils for the demands and challenges of adult and working life
- the school's pastoral care arrangements protect the pupils from harm, safeguard their health and welfare and support their learning and development
- pupil welfare embraces all aspects of school life through the pastoral care system, child protection, pupil behaviour, health and well-being, physical safety and security
- pupils are equipped to cope with personal challenges through the curriculum on offer, the systems for monitoring of pupils' academic progress and wellbeing and the range of support available within the school to pupils experiencing difficulties
- the pastoral care system includes the support which a school offers pupils at vulnerable times, such as mentoring or counselling provided either by school staff or external experts

### **Child Protection**

13.16. The current main guidance for schools is set out in the document attached to the Department's Circular 2017/04 Safeguarding and Child Protection in Schools – A Guide for Schools.

- <https://www.education-ni.gov.uk/publications/circular-201704-safeguarding-and-child-protection-schools-guide-schools>

### **Statutory Duty of Boards of Governors**

13.17. The Board of Governors has a statutory duty, under Article 18 of the Education and Libraries (NI) Order 2003, to decide on the measures to be taken by all persons associated with the school (whether by the Board of Governors, the school staff or other persons) to protect pupils from abuse, whether at school or elsewhere, and to review these measures from time to time or as directed by DE. The 2003 Order places a further obligation on the board of governors to prepare a written statement of such measures (the child protection policy) and to secure that copies of the statement must be made available free to parents of registered pupils and available for inspection at the school.

13.18. Further, when drawing up these measures the Board of Governors must have regard to any relevant guidance. Relevant guidance is normally either prepared by DE, DHSSPS or issued with the Department's endorsement. Furthermore, schools are recommended in the DE Circular 2017/04 Guide for Schools (Para 4.2) to use a safeguarding proforma entitled 'Guidance for the evaluation of child protection/safeguarding' designed by the ETI to assist governors and schools to review their arrangements at least on an annual basis. The proforma is available at [www.etini.gov.uk/articles/safeguarding](http://www.etini.gov.uk/articles/safeguarding).

13.19. The Schedule for Regulation 4 of The Education (School Development Plans) Regulations (NI) 2010 requires schools to monitor and review annually (Regulation 7) the progress made in the school's approach to:

- promoting the health and well-being, attendance, good behaviour and discipline of pupils and
- managing the attendance and promoting the health and well-being of staff.

### **Designated Governor for Child Protection**

13.20. The Board of Governors, as a matter of good practice, should delegate lead responsibility for safeguarding and child protection to a specific member of the governing body. This Designated Governor, after appropriate training from the EA Child Protection Support Service for Schools, will be able to advise the governors on issues such as:

- the role of designated teachers
- the content of child protection policies
- the content of a code of conduct for adults within the school
- the arrangements for recruitment, selection and vetting of staff
- child protection training for school staff
- safeguarding initiatives

13.21. It is also recommended, as a matter of good practice, that the Parent or Teacher Governor do not act as the Designated Governor for Child Protection. There is the

potential for a conflict of interest, when the Board of Governors is required to deal with specific allegations of child abuse involving members of staff and/or pupils and this could impede the Designated Governor in discharging an appropriate challenge function.

### **Child Protection Arrangements – Key Elements**

13.22. The school should have a trained Designated Teacher (DT) with specific responsibility for child protection matters. There should also be a second named trained teacher (Deputy Designated Teacher) to support the DT and assume the responsibilities in case of absence. The names of both teachers should be known to all pupils, teaching staff, parents and members of the Board of Governors.

13.23. There should be a statement about the standards of behaviour expected of staff in their interactions with pupils. The statement should be tailored to suit the age and ability of the pupils in the school and address the specific issues which will arise, for example, in a nursery school, issues around toileting and changing children's clothes or in post-primary schools issues around relationships outside of school with pupils. The code should also deal with situational issues which can arise, such as interviews with individual pupils and giving pupils a lift home after school events.

13.24. There should be clear procedures to be followed where there are concerns that a child is being abused, whether the concerns come by way of a disclosure from the child, observed behaviours by members of staff, or a report from a parent or another member of the public. The procedure to be followed should include the role of the Designated Teacher (or Deputy) as the source of advice and person who will act on concerns, how referrals will be made to the investigating agencies, the involvement of parents and record keeping arrangements.

13.25. There should be clear procedures to be followed where an allegation of child abuse is made against a member of staff. The procedure to be followed will depend on whether the complaint is about the Principal, the Designated Teacher or another member of staff - see [DE Circular 2015/13](#) for further information.

13.26. The school should maintain a confidential Record of Child Abuse Complaints made against members of staff. The record should be reviewed by the Board of Governors at least annually and available on request to the Education and Training Inspectors during inspections. The Board of Governors should request a report on all aspects of Child Protection within the school at least annually.

13.27. The school should acknowledge in any statement about child protection, the part that the curriculum will play in promoting the keeping safe agenda with all its pupils. Pupils should understand the child protection arrangements and information should be displayed in the school about how they can raise a concern or complaint.

13.28. The Chairperson of the Board of Governors shares responsibility with the Principal to ensure that:

- Governors are vetted in line with the Department's requirements
- a sufficient number of Governors are suitably trained in child protection matters, to serve on staff recruitment and selection interview panels

- the child protection elements of the process of recruiting selecting teaching and non-teaching staff are strictly adhered to
- staff who work in schools, including members of a work force employed by a firm working in the school, are properly pre-employment checked and vetted to ensure that the confidence of parents and the public, in their arrangements to protect children, is sustained
- all reasonable steps are taken to guard against employing people who might harm children or put them at risk

### **Child Protection Support Service (CPSS)**

13.29. The CPSS was established to address the needs of schools' staff for ready access from day to day, to expert advice on issues around child protection, support in dealing with specific cases and for relevant training. The service now includes youth service within its remit.

13.30. The CPSS has dedicated staff and operates a telephone helpline service for schools' staff during normal school hours, on all days that schools are open.

13.31. The CPSS provides training tailored to the roles and responsibilities of staff with child protection responsibilities in a school setting – Designated Teachers and their deputies, Principals and members of the Board of Governors. Every year CPSS conducts an audit with schools about their training needs, which covers new appointments and those who have been in position for more than 3 years and who require refresher training.

### **Inspection of Pastoral Care and Child Protection**

13.32. Every inspection carried out in a school includes an assessment of the pastoral care and welfare and child protection/safeguarding arrangements. The ETI will evaluate the arrangements for safeguarding as meeting (or meeting broadly) the requirements of the Department of Education or as unsatisfactory. Where an unsatisfactory evaluation is made, the Department will expect prompt action to rectify any deficiencies and the ETI will make a follow-up visit in six weeks to ensure that the issues identified have been resolved promptly. The arrangements for care and welfare will be evaluated holistically, taking into account the teaching and learning, the outcomes and the leadership and management, either as impacting positively on the learning of the pupils or as not impacting positively enough.

### **Health Promotion in Schools/Healthy Schools**

13.33. Schools have a vital role to play in health promotion and are in a position to contribute positively to the growth and development of healthy children and young people. They can do this by promoting healthy eating, physical activity, personal development and emotional health and wellbeing, for example through:

- Becoming a 'healthy school' – information on Public Health Agency website [www.publichealth.hscni.net](http://www.publichealth.hscni.net)
- a robust and comprehensive health education policy



- elements of the curriculum such as physical education (DE recommends a minimum of 2 hours of PE per week), the taught pastoral care programme; the personal development strand of the curriculum; science education and home economics
- extra-curricular activities for example breakfast clubs, after school sporting activities, cookery, drugs and alcohol awareness, smoking cessation classes etc.
- the provision of only healthy foods and drinks in the school, in compliance with the Department's compulsory Nutritional Standards for School Lunches and Other Food and Drinks in Schools (Annex to the Arrangements for the Provision of Milk, Meals and Related Facilities) <https://www.education-ni.gov.uk/publications/milk-and-meals-arrangements-education-authority-voluntary-grammar-and-grant-maintained>
- compliance with the DE and DHSSPS Food in Schools policy -Healthy Food For Healthy Outcomes September 2013 issued under cover of circular 2013/21. <https://www.education-ni.gov.uk/publications/healthy-food-healthy-outcomes>
- school assemblies
- where appropriate, engaging with external organisations to support the delivery of the curriculum
- health-based sponsored activities
- participation in health related campaigns
- anti-bullying measures
- the school health service (for example school nurses)
- the Education Welfare Service

Boards of Governors, in all grant-aided schools, are required to ensure that the promotion of the health and well-being of staff and pupils is included in their School Development Plan.

### **Health Campaigns in Schools**

13.34. Boards of Governors are advised to cooperate with the Health Service, when it engages in campaigns to tackle a serious health-related issue affecting school-aged children. Mass campaigns of, for example, child vaccination are probably most efficiently and effectively undertaken in schools where the children are in significant numbers.

### **Pupils with Medical Needs**

13.35. Pupils with medical needs have the same rights of admission to a school or setting as any other pupils. Schools must not discriminate against disabled pupils in relation to their access to education and associated activities, such as school trips, residentials and attendance at clubs. Most pupils will, at some time, have short-term medical needs for example finishing a course of antibiotics, while some pupils will have longer-term medical needs and may require medicines on a longer-term basis to keep them well for example pupils with well-controlled epilepsy or cystic fibrosis. Other

pupils may require medicines in particular circumstances for example pupils with severe allergies who may need an adrenaline injection or those with severe asthma who need daily inhalers and additional doses during an attack.

13.36. Most pupils with medical needs can attend school and take part in normal activities, sometimes with some support. Staff, however, may need to take extra care in supervising such activities to ensure that pupils are not put at risk.

13.37. There is no legal duty that requires school staff to administer medicines. It is important, however, that the staff members who take responsibility for administering medicines are appropriately trained and have support from health professionals. In dealing with this issue, the Board of Governors should ensure that:

- they take cognisance of the DE guidance entitled 'Supporting Pupils with Medication Needs'
- there is a clear policy on the management of medicines in its school
- proper account is taken of the views of the Principal, staff and parents and of any guidance provided by DE and the Education Welfare Service of the EA in developing this policy. In line with Article 12 of the UN Convention on the Rights of the Child, a child (who is capable of forming their own views) should have the right to freely express their views and due weight given to those views, in accordance with the age and maturity of the child
- there are robust systems in place to ensure that medicines are managed safely
- there is an assessment of the risks to the health and safety of the staff and others
- measures are put in place to manage any identified risks

### **The Misuse of Drugs**

13.38. The role of schools in relation to drugs is twofold: prevention (through the school's taught drugs education programmes) and protection (through the school's drugs education policy).

13.39. Boards of Governors should be aware that all grant-aided schools have a statutory duty to:

- have a drugs education policy in place
- publicise the drugs education policy in their prospectus
- inform the police where they believe or suspect a pupil to be in possession of a 'controlled drug' – if in any doubt about the nature of the substance, the police should be informed

[DE Circular 2015/23: Drugs Guidance](#) provides further advice. As the misuse of drugs is not confined to illegal drugs, the advice contained in the circular is applicable to the misuse of alcohol, tobacco, volatile substances, over-the-counter and prescribed medication and performance-enhancing drugs in sport.

## Relationships and Sexuality

13.40. Boards of Governors should ensure that their schools have a Relationships and Sexual Education policy and curriculum linked to their pastoral care/child protection policy. This policy and the associated teaching should be the subject of consultation with staff and parents and be endorsed by the Governors. [DE Circular 2015/22: Relationship and Sexuality Education \(RSE\)](#) provides further advice. Also see web links under the **Guidance** section below.

## The Law

### Primary Legislation

Education and Libraries (NI) Order 1986 – Articles 58 and 59

Education and Libraries (NI) Order 2003 – Article 17 (*Duty to safeguard and promote the welfare of pupils*)

Education (NI) Order 2003 – Article 18 (*Child protection measures*)

Education (NI) Order 2006

### Subordinate Legislation

Education (School Development Plans) Regulations (NI) 2005 SR No. 303 (*Regulation 3 Schedule, paragraph 3(a)(ix)*) (*shall continue to apply to school development plans prepared or last revised before 1 August 2010*)

The Education (School Development Plans) Regulations (NI) 2010 (*came into operation on 24 January 2011*)

## Guidance

CPSSS School Governors Handbook on Child Protection – <https://www.education-ni.gov.uk/sites/default/files/publications/education/CPSSS%20School%20Governors%20Handbook%20-%20Revised%20February%202017.pdf>

DE Circular 2017/04 Safeguarding and Child Protection in Schools – A Guide for Schools - <https://www.education-ni.gov.uk/publications/safeguarding-and-child-protection-schools-guide-schools>

DE Circular 2015/22: Relationships and Sexuality Education  
<https://www.education-ni.gov.uk/publications/circular-201522-relationship-and-sexuality-education>

Also see guidance of Equality Commission at  
[www.equalityni.org/SOEducationguide1\(1\).pdf](http://www.equalityni.org/SOEducationguide1(1).pdf)

[http://ceea.org.uk/curriculum/rse\\_primary](http://ceea.org.uk/curriculum/rse_primary) for primary schools

[http://ccea.org.uk/curriculum/rse\\_post\\_primary](http://ccea.org.uk/curriculum/rse_post_primary) for post-primary schools, which includes the responsibilities of school governors

DE Circular 2003/13: Welfare and Protection of Pupils

<https://www.education-ni.gov.uk/publications/circular-200313-welfare-and-protection-pupils-education-and-libraries-ni-order-2003>

DE Circular 2015/23: Drugs Guidance [https://www.education-](https://www.education-ni.gov.uk/publications/circular-201523-drugs-guidance)

[ni.gov.uk/publications/circular-201523-drugs-guidance](https://www.education-ni.gov.uk/publications/circular-201523-drugs-guidance)

DE Circulars 2006/06: Child Protection Recruitment of People to work with children and young people in educational settings

<https://www.education-ni.gov.uk/publications/circular-200606-recruitment-people-work-children-and-young-people-educational-settings>

DE Circular 2006/07: Child Protection Employment of Substitute Teachers

<https://www.education-ni.gov.uk/publications/circular-200607-child-protection-employment-substitute-teachers>

DE Circular 2006/08: Child Protection: Training Requirement for School Governors on Staff Recruitment and Selection Panels

<https://www.education-ni.gov.uk/publications/circular-200608-child-protection-training-requirement-school-governors-staff>

DE Circulars 2006/09: Child Protection: Criminal background checking of staff in schools - Programme to extend coverage

<https://www.education-ni.gov.uk/publications/200609-criminal-background-checking-staff-schools>

DE Circular 2006/25: Child Protection: Vetting of School Governors

<https://www.education-ni.gov.uk/publications/circular-200625-vetting-school-governors>

DE Circular 2010/22 School Development Planning – Regulations and Guidance

<https://www.education-ni.gov.uk/publications/circular-201022-school-development-planning-regulations-and-guidance>

DE Circular 2015/13: Dealing with Allegations of Abuse against a Member of Staff

<https://www.education-ni.gov.uk/publications/circular-201513-dealing-allegations-abuse-against-member-staff>

DE Circular 2016/20 Child Protection: Record Keeping in Schools

<https://www.education-ni.gov.uk/publications/circular-201620-child-protection-record-keeping-schools-0>

DE/DHSSPS 2008: Supporting Pupils with Medication Needs

<https://www.education-ni.gov.uk/articles/support-pupils-medication-needs>

Nutritional standards for school lunches: a guide for implementation

[www.publichealth.hscni.net/publications/nutritional-standards-school-lunches-guide-implementation](http://www.publichealth.hscni.net/publications/nutritional-standards-school-lunches-guide-implementation)

Nutritional standards for other food and drinks in schools: a guide for implementation

[www.publichealth.hscni.net/publications/nutritional-standards-other-food-and-drinks-schools-guide-implementation](http://www.publichealth.hscni.net/publications/nutritional-standards-other-food-and-drinks-schools-guide-implementation)

School food: the essential guide

[www.publichealth.hscni.net/publications/school-food-essential-guide-and-irish-translation](http://www.publichealth.hscni.net/publications/school-food-essential-guide-and-irish-translation)

DE Circular 2013/21 Healthy Food For Healthy Outcomes – Food in Schools Policy

<https://www.education-ni.gov.uk/publications/healthy-food-healthy-outcomes-food-schools-policy-0>

DE and DHSSPS Food in Schools policy - Healthy Food for Healthy Outcomes

September 2013

<https://www.education-ni.gov.uk/publications/healthy-food-healthy-outcomes>

## 14. Educational Visits

This chapter provides advice to the Board of Governors in relation to the arrangements for educational visits involving registered pupils at a grant-aided school.

### The Role of the Board of Governors

The role of the Board of Governors is to ensure that best practice procedures operate with regard to safeguarding the welfare of the school's registered pupils during educational visits.

The Board of Governors has a statutory duty, under Article 17 of the Education and Libraries (NI) Order 2003, to safeguard and promote the welfare of registered pupils at the school at all times when the pupils are in the lawful control or charge of a member of the staff of the school.

14.1. Educational visits may be defined as all academic, sporting, cultural, creative and personal development activities which take place away from school and make a significant contribution to the learning and development of those taking part.

### Welfare and Safety Principles

14.2. The legal framework to protect children from harm is provided, primarily, by the Children (NI) Order 1995. Thus, the following principles must be borne in mind by staff organising educational visits and by Boards of Governors sanctioning such visits:

- the young pupil's welfare, which overrides all considerations, must always be paramount
- the pupils have the fundamental right to be protected from harm
- special consideration must be given to pupils who have special educational needs, as they may be particularly vulnerable

Under common law, children are legally entitled to receive special care and attention in terms of welfare and safety by those in whose charge they are placed. The 'duty of care', which is discharged daily by teachers and others who have a supervisory role in schools, applies to those activities which take place outside the school. It is incumbent on teachers and those with supervisory responsibilities, to act reasonably in all circumstances so that the personal safety and well-being of those in their care are not jeopardised during a visit.

### Best Practice Procedures

14.3. Boards of Governors should ensure that the best practice in relation to visits is developed and implemented within their schools. In pursuance of this aim, Boards of Governors and their Principals should:

- ensure that the school has a written policy on educational visits

- ensure that educational visits have specific educational objectives
- satisfy themselves that a risk assessment has been carried out
- ensure that appropriate safety measures are in place
- ensure that the teacher-in-charge can demonstrate how their proposal complies with the school's policies in relation to educational visits and health and safety
- be assured that all adults involved in the visit/residential are child-protection vetted
- be assured that the ratio of supervisors to pupils is appropriate for the needs of the group
- insist that they are informed about less routine visits or residential activities well in advance of them happening
- contribute to the establishment of an acceptable code of conduct for both teachers/supervisors-in-charge, and pupils

14.4. Boards of Governors should note that educational visits may include the following:

#### **Non-Hazardous Activities**

- those which take place on a regular basis within the school day for example sporting fixtures, visits to the swimming pool or library
- one-off day visits for example field study trips, regional sporting fixtures, theatre visits
- residential activities for example Duke of Edinburgh's Award Scheme, field trips, outward bound activities
- residential visits outside the UK or Ireland for example ski trips, international exchange activities

#### **Hazardous Activities**

- these may be residential or non-residential activities such as hill walking, rock climbing, wind surfing, horse riding, rafting, open canoeing

### **The Law**

Children (NI) Order 1995

Education and Libraries (NI) Order 2003 – Article 17 (*Duty to safeguard and promote the welfare of registered pupils*)

### **Guidance**

[Educational Visits Best Practice 2009 PDF 1,227 KB](#) (produced by a working group comprised of representatives from key stakeholder organisations)

## 15. Pupil Behaviour And Discipline

This chapter explains the responsibilities of the Board of Governors and the Principal in relation to pupil behaviour and discipline and the procedures for pupil suspensions and expulsions.

### **The Role of the Board of Governors**

The role of the Board of Governors is to promote good behaviour and discipline among pupils attending the school in order to safeguard their welfare and facilitate their educational progress at school. The Board of Governors should:

- ensure that the school has policies about the promotion of good behaviour and discipline and the use of reasonable force
- have a written statement of 'general principles' about pupil behaviour and discipline
- ensure that the school has appropriate procedures for dealing with the issue of bullying and about complaints about bullying
- ensure that the school has a scheme for the suspension and expulsion of pupils in accordance with legal requirements
- ensure that a scheme operates in the school

15.1. Good discipline is central to ensuring positive behaviour in the school; creating a climate which fosters effective learning; ensuring the safety of pupils when they are at school and promoting safe travel to and from school. It is essential, therefore that Boards of Governors are clear about their responsibilities in this area.

### **The Statutory Framework**

15.2. The Board of Governors has a legal duty to safeguard and promote the welfare of registered pupils at the school when the pupils are on school premises or in the lawful control or charge of a member of school staff.

15.3. The outworking's of the Entitlement Framework may mean that some schools will have pupils attending from other schools. The Board of Governors must safeguard and promote the welfare of all pupils attending its school, whether registered or not, when they are on the premises of the school or in the lawful control or charge of a member of school.

15.4. The Board of Governors and the Principal are also responsible for ensuring that the school has behaviour policies which promote positive behaviour and discipline among registered pupils and that these should cover all pupils attending the school, whether registered or not.

15.5. The Board of Governors must make, and keep under review, a written statement of 'general principles' about pupil behaviour and discipline, which the Principal will have regard to in determining school rules and behaviour policies. Before making its



statement, the Board of Governors must consult the Principal, the registered pupils at the school and their parents. It must also consider any guidance given by the Department of Education (DE) and the Education Authority (EA).

15.6. The Board of Governors must also decide, and set out, what aspects of discipline/behaviour should be a matter for the Principal and give the Principal any guidance on the aspects which it decides is appropriate.

15.7. The Principal is responsible for determining measures which the school will take to:

- promote self-discipline and proper regard for authority among pupils
- encourage good behaviour, respect for others and prevent all forms of bullying among pupils
- secure an acceptable standard of pupil behaviour
- regulate the conduct of pupils

In doing so, the Principal should act in accordance with the Board of Governors' statement of general principles and any other guidance provided. A written statement of the measures must be given, free of charge, to the parents of all registered pupils at the school and made available for inspection, at all reasonable times and free of charge, at the school.

### **Detention of Pupils Outside School Hours**

15.8. Schools may, on disciplinary grounds, require a registered pupil, who has not attained the age of 18, to spend a period of time in detention at the end of a school session. Consent is not required from the pupil's parents as long as:

- the Principal has generally made known within the school, informed all pupils and their parents that detention is one of the measures for regulating pupil conduct
- the detention is imposed by the Principal or by another teacher in the school authorised by the Principal
- the detention is reasonable in all the circumstances
- the parents have been given at least 24 hours' notice in writing, that the detention is due to take place

15.9. In deciding whether a detention is reasonable, the following should be taken into account:

- whether the detention constitutes a proportionate punishment in the circumstances
- any relevant special circumstances such as the pupil's age, any special educational needs the pupil may have, any religious requirements affecting the pupil and where arrangements have to be made for the pupil to travel home, whether suitable alternative travel arrangements can reasonably be made by the parents

15.10. Pupils over the age of 18 cannot be placed in detention.

## **The Use of Reasonable Force to Restrain or Control Pupils**

15.11. All schools have a pastoral responsibility towards their pupils and should take all reasonable steps to ensure that the welfare of pupils is safeguarded and that their safety is preserved. The need to use reasonable force to restrain or control a pupil should be rare. However, if a pupil's behaviour threatens the safety of other pupils and staff, a member of staff may use such force as is reasonable in the circumstances to prevent the pupil from:

- committing an offence
- causing personal injury to, or damage to the property of, any person (including the pupil themselves)
- engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils, whether during a teaching session or otherwise

15.12. These conditions, for use of reasonable force, apply where a member of staff is on school premises or elsewhere, or has lawful control or charge of the pupil concerned. However, it is emphasised that corporal punishment remains unlawful and staff must not use any degree of physical contact which is deliberately intended to cause pain, injury or humiliation.

15.13. The Board of Governors, in consultation with the Principal, should:

- ensure that the school has a clear written policy about the use of reasonable force
- include a statement in its discipline policy, setting out the policy and guidelines on the use of reasonable force to restrain or control pupils
- discuss these with staff who may have to apply them
- issue or make them known to parents and pupils
- have regard to any advice issued by DE and the EA and, in the case of a Catholic maintained school, the CCMS

The [DE Circular 1999/9](#) and the [DE 2005 publication 'Towards a Model Policy in Schools on the Use of Reasonable Force'](#) provide more detailed guidance for Boards of Governors and for schools.

## **Bullying**

15.14. The issue of bullying is addressed in Safeguarding and Child Protection in Schools – A Guide for Schools - <https://www.education-ni.gov.uk/publications/safeguarding-and-child-protection-schools-guide-schools>.

It is a contravention of pupils' rights not to protect them from all forms of physical and mental violence. It also infringes their right to education and to freedom from torture and inhuman treatment under the Human Rights Act 1998.

15.15. Thus, the Board of Governors has a responsibility to be actively involved in encouraging and supporting their school as they endeavour to:

- recognise bullying
- develop an anti-bullying culture consistent with their positive ethos, pastoral care policy and whole-school policy on good behaviour
- develop a specific whole school approach to tackling bullying which is owned by all staff, pupils and parents

15.16. Research published by the Department in October 2011 revealed that 36% of primary school children and 29% of post-primary perceive that they have been bullied at least once. Boards of Governors should be aware that no school is exempt from bullying behaviour. Bullying in any shape or form, and no matter how minor it might be perceived to be, can be profoundly damaging personally, socially and educationally, to the children experiencing it. When a pupil is bullied at school, parents will normally seek support and expect that the school will take firm and effective action to eliminate the problem. While parents' expectations may not always be realistic, they should have their concerns dealt with in a respectful manner.

15.17. Parents may raise a complaint with the Board of Governors about the way bullying or a specific incident has been handled within the school. The Department expects that Boards of Governors will treat any such complaint seriously and swiftly determine if there is an issue and take appropriate action, including advising the parents of the position. The Department acknowledges that some complaints may be unfounded but it is crucial that parents' concerns are addressed.

### **Cyber-bullying and harassment**

15.18. Cyber-bullying (online social aggression) is the use of electronic information and communication devices, such as email, instant messaging, text messages, mobile phones, pagers and defamatory web sites, to bully or otherwise harass an individual or group through personal attacks or other means.

15.19. Boards of Governors should be aware that young people have fully embraced the Internet and other technologies (for example mobile phone) as both an environment and a tool for socialising. They send emails, create their own web sites, post intimate personal news in blogs (i.e. online interactive diaries), send text messages and images using mobile phones, chat in chat rooms, post discussion boards and seek out new friends in social networking sites. Unfortunately, these technologies are used by some children and young people to post cruel text messages or images, to bully their peers and engage in other aggressive online behaviour; sometimes material is posted online that suggests those posting it are considering violence towards others or themselves.

15.20. Such bullying and harassment can be done anonymously with a pay phone or from an Internet Café. Staff may also be subjected to cyber bullying by pupils. Unacceptable and threatening photographs and videos can be used. Ownership of a mobile phone may also be a cause for bullying, resulting in theft. The Board of Governors should encourage the Principal to work cooperatively with the staff, pupils and parents to prevent such behaviour and to devise approaches to dealing with it whenever it occurs.

15.21. Pupils should be aware of:

- how to protect themselves from mobile phone theft
- procedures for the IMEI (International Mobile Equipment Identity) number, hence disabling the phone if it is lost or stolen
- rules about the possession and use of mobile phones within the school
- how to react when threatened whether through a mobile phone, email, chat room or instant messenger services

Further information is available in DE Circular 2007/01 Acceptable use of the Internet in Schools <https://www.education-ni.gov.uk/publications/circular-200701-acceptable-use-internet-schools> and DE Circular 2016/27 Online Safety <https://www.education-ni.gov.uk/publications/circular-201627-online-safety>

## **Suspension and Expulsion**

15.22. In the most serious cases of pupil indiscipline, the school may have to consider suspension or expulsion, after other methods of improving a pupil's behaviour have been unsuccessful. The DE publication in 2001 'Pastoral Care in Schools: Promoting Positive Behaviour' contains guidance on the appropriate use of suspension and expulsion.

15.23. The procedures to be followed, in relation to the suspension and expulsion of pupils from controlled schools, are set out in a scheme prepared by the EA. For all other grant-aided schools, the Board of Governors is legally responsible for preparing a scheme for the suspension and expulsion of pupils from the school.

Each scheme must include the following provisions:

- a pupil may be suspended from the school only by the Principal
- an initial period of suspension shall not exceed 5 school days in any one school term
- a pupil may be suspended from school for not more than 15 school days in any one school term
- where a pupil has been suspended, the Principal shall immediately
  - i. give written notification of the reasons for and the period of suspension to the parent of the pupil, to the EA and the chairperson of the Board of Governors
  - ii. invite the parent of the pupil to visit the school to discuss the suspension
- the Principal shall not extend a period of suspension without the prior approval of the chairperson of the Board of Governors and shall, in every case, give written notification of the reasons for the extension and the period of extension to the parent of the pupil and to the EA
- a pupil may be expelled from school only after serving a period of suspension
- a pupil may be expelled from a school only after consultation about their expulsion has taken place between the Principal, the parent of the pupil, the Chief Executive

or another authorised officer of the EA and the chairperson of the Board of Governors. Any neglect or refusal on the part of the parent to take part in such consultations shall not prevent a pupil being expelled from the school. These consultations must include consultations about the future provision of suitable education for the pupil concerned

- a pupil may be expelled only by the expelling authority. The expelling authority is the EA for controlled schools and the Board of Governors for all other grant-aided schools
- where a pupil is expelled from the school, the expelling authority must immediately give written notification to the parent of their right to appeal the decision to expel the pupil, of the time limit set by the EA for lodging the appeal and of where the appeal may be lodged

15.24. It is important that the Board of Governors and the Principal follow closely the procedures provided in the scheme which reflects statutory requirements. Also, the school should have regard to the need to make arrangements for the provision of suitable education to a registered pupil of the school, during the period when the pupil is suspended from the school.

15.25. The EA is required to make arrangements for the parent of a pupil or the pupil if they are aged 18, to appeal against any decision of the expelling authority to expel the pupil from the school. The Board of Governors is legally bound to comply with any direction given by an expulsion appeals tribunal.

## **The Role of the Principal in Disciplinary Matters**

15.26. The Board of Governors should be familiar with the school's discipline policy and procedures. However, the Principal is in charge of its day-to-day management and has responsibility for ensuring that all staff members are familiar with the school's policy and that agreed discipline practices are applied consistently. The Principal's role is clearly set out in legislation and in the school's Scheme of Management. The Board of Governors may require the Principal to provide oral and written reports in matters relating to discipline. The Principal should co-operate with the Board of Governors in all matters relating to school discipline, including bullying, suspension (and the continuing education of suspended pupils) and expulsion (including appeals by parents against such measures).

15.27. Monitoring of pupils' behaviour and the effectiveness of the current policy on good behaviour and measures to deal with bullying, together with information about suspensions, expulsions and parents' complaints are often best dealt with by a committee of the Board of Governors.

15.28. It may be helpful to note suspension and expulsion Management Information is collected and published each year on the Department's website under the facts and figures section. The Board of Governors may wish to keep abreast of the position in their school on the number of suspensions, in particular multiple suspensions and expulsions, including the reasons for them.

## EDUCATION OTHERWISE THAN AT SCHOOL (EOTAS)

15.29 Under Article 86 (1) of the Education (NI) Order 1998, the Education Authority (EA) has a duty to “*make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who by reason of illness, expulsion or suspension from school or otherwise, may not for a period receive suitable education unless such arrangements are made for them*” This provision includes many different support services which are collectively known as “Education Otherwise Than At School” (EOTAS).

### Departmental Guidance

15.30 In September 2014, the Department issued guidance and advice for Principals and Boards of Governors in relation to EOTAS. This guidance clarified the legal framework and minimum requirements it expects the EA to apply to EOTAS provision. It also highlighted that only the EA can determine that a pupil requires an EOTAS placement **Schools, EOTAS providers or the parents/guardians of a pupil may not bypass the EA’s referral and decision making process.**

Where a pupil is placed in EOTAS but has not previously been expelled, they must remain on the school’s register and should be treated as dual registered between the school and EOTAS centre, for all recording purposes.

### Role of Schools – Educational

15.31 Schools are expected to maintain regular contact with pupils in EOTAS, to ensure their pastoral and academic needs are being met, and are expected to contribute to the learning opportunities a registered pupil receives within EOTAS. Where the pupil’s physical attendance cannot be facilitated, the school must consider e-learning opportunities or alternative arrangements which it can make.

### Role of Schools – Monitoring and Reporting

15.32 EOTAS centres will provide schools with attendance information on their registered pupils. Schools must record this in line with attendance data for all their registered pupils.

15.33 EOTAS centres will provide the school with regular progress reports against the pupil’s education plan. A school must formally report this progress to the parents / guardians of the young person, in line with its normal reporting arrangements and timeframes.

15.34 Educational outcomes of registered pupils in EOTAS must be reported by the school at the end of all Key Stages, in line with their reporting on all pupils.

### School Funding

15.35 A pro-rata proportion of the Age Weighted Pupil Unit (AWPU) will be recouped from a pupil’s school by the EA when a pupil is placed in EOTAS.

15.36 Where a school makes the expected contribution to the pupil's ongoing education the EA will reinstate a percentage of the recovered AWPU.

15.37 Any other additional pupil payments, such as those provided for children of Travellers, Looked after Children and Newcomer Allowances, will follow a child entering EOTAS and the EA will recoup these from the school.

## **The Law**

### **Primary Legislation**

Education and Libraries (NI) Order 1986 – Article 49 (*Suspension and Expulsion of Pupils*)

Education and Libraries (NI) Order 1993 – Article 39 (*Suspension and Expulsion of Pupils*)

Education (NI) Order 1998 – Article 3 (*Responsibility of Board of Governors and principal for discipline*)

Education (NI) Order 1998 – Article 4 (*Power of member of staff to restrain pupils*)

Education (NI) Order 1998 – Article 5 (*Detention of pupil outside school hours*)

Education (NI) Order 1998 – Article 6 (*Duty of EA to prepare a plan relating to children with behavioural difficulties*)

Education (NI) Order 2003 – Article 17 (*Duty on Board of Governors to safeguard and promote the welfare of pupils*)

Education (NI) Order 2003 – Article 19 (*School discipline to prevent bullying*)

*Education (NI) Order 1998 – Article 86 (1) and (2) (responsibility for EOTAS provision)*

### **Subordinate Legislation**

Schools (Suspension and Expulsion of Pupils) Regulations (NI) 1995 SR No. 99

## **Guidance**

CCMS and EA (formerly ELB) Schemes for the Suspension and Expulsion of Pupils

DE Circular 1998/25: Pupil Behaviour & Discipline

<https://www.education-ni.gov.uk/publications/circular-199825-promoting-and-sustaining-good-behaviour-schools>

DE Circular 1999/9: Pastoral Care: Guidance on the Use of Reasonable Force to Restrain or Control Pupils  
<https://www.education-ni.gov.uk/publications/circular-199909-use-reasonable-force>

DE Circular 2017/04 Safeguarding and Child Protection – A Guide for Schools -  
<https://www.education-ni.gov.uk/publications/safeguarding-and-child-protection-schools-guide-schools>

DE Circular 2003/13: Welfare and Protection of Pupils: Education & Libraries (NI) Order 2003  
<https://www.education-ni.gov.uk/publications/circular-200313-welfare-and-protection-pupils-education-and-libraries-ni-order-2003>

DE Circular 2007/01: Acceptable Use of the Internet and digital Technologies in Schools and Management Responsibilities in Schools  
<https://www.education-ni.gov.uk/publications/circular-200701-acceptable-use-internet-schools>

DE Circular 2011/22 Internet Safety  
<https://www.education-ni.gov.uk/publications/circular-201122-internet-safety>

DE Circular 2013/25 eSafety Guidance  
<https://www.education-ni.gov.uk/publications/circular-201325-esafety-guidance>

DE Circular 2016/27: Online Safety  
<https://www.education-ni.gov.uk/publications/circular-201627-online-safety>

DE Circular 2015/19: Notification of Pupil Suspension to the Education Authority  
<https://www.education-ni.gov.uk/publications/circular-201519-notification-pupil-suspension-education-authority>

DE publication in 2001 Pastoral Care in Schools: Promoting Positive Behaviour  
<https://www.education-ni.gov.uk/publications/pastoral-care-schools-promoting-positive-behaviour>

DE publication (2005) Towards a Model Policy in Schools on the Use of Reasonable Force  
<https://www.education-ni.gov.uk/publications/towards-model-policy-schools-use-reasonable-force>

Equality Commission guidance on sexual orientation and education  
[www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Sexual Orientation-Education\\_Guide.pdf](http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Sexual%20Orientation-Education_Guide.pdf)

DE Circular 2014/24: Education Otherwise Than At School (EOTAS) – Guidance  
<https://www.education-ni.gov.uk/sites/default/files/publications/education/2014-24-eotas-guidance.pdf>

Education Otherwise Than At School Guidance  
<https://www.education-ni.gov.uk/sites/default/files/publications/de/pdf-format-2014-eotas-guidance-document.pdf>



## 16. Pupil Registration and Attendance

This chapter provides the Board of Governors with information on the legal requirements with regard to the registration and attendance of school pupils. Information about the number of days and hours which schools are required to be open to pupils is contained in Chapter 18.

### The Role of the Board of Governors

The role of the Board of Governors is to ensure that the Principal keeps a General Register of the pupils at the school and a Pupil Attendance Register and that appropriate action is taken to encourage good attendance at school.

### General Register

16.1. The Board of Governors of a grant-aided school must ensure a General Register is kept with particulars of all the pupils at the school.

16.2. The Principal is normally responsible on a day to day basis for ensuring that the register contains a list of the full names of the pupils and the following basic information:

- gender and date of birth
- religious denomination
- ethnicity
- parent(s) name(s) and address
- date of admission or readmission to the school

In the case of a child who has not previously been registered at a school, the parent must provide the Principal with a Registrar's Certificate of Birth or other satisfactory documentary evidence of birth.

16.3. All schools now record and store information about current and past pupils in electronic format. The use of this format allows greater flexibility in the way information about pupils can be presented, for example by whole school in alphabetical order, by class group, by age. In addition to the basic details recorded about pupils on the General Register, the information below is currently required to be recorded:

- classes enrolled in while at school and date of each enrolment
- daily attendance during each school year
- name and address of previous school, if any
- date of leaving school
- destination as a school leaver, if known
- status i.e. day pupil or boarder in the cases of a school with a boarding department

The Department of Education (DE) may from time to time specify additional information that is required to be recorded. All of the information in the General Register must be kept securely and is subject to the data protection legislation.

16.4. Where a parent indicates their intention to withdraw their child from the school or to place their child in another school, the Principal must provide the parent with a copy of the certificate of attendance at school, Form SA1. If the child is transferring to another school, the Principal of the other school must receive Form SA1 from the parent before the child can be registered. This procedure does not apply in the case of children transferring from primary to post-primary education.

16.5. The Principal can only remove pupils from the school's register in the following circumstances:

- confirmation that the pupil has registered at another school in Northern Ireland
- no longer residing in Northern Ireland
- expulsion
- death
- leaves school having completed compulsory schooling

## **Attendance Registers**

16.6. The Board of Governors of a grant-aided school must ensure that a Pupil Attendance Register is kept.

16.7. The Principal is normally responsible on a day to day basis for ensuring that the attendance of registered pupils is recorded on each school day, in accordance with DE instructions.

16.8. Since September 2006, a new standardised system of recording absences has been used in schools, following an update of the attendance module of the Classroom 2000 (C2K) system. It is supported by guidance included in the DE Circular 2017/15 'Attendance Guidance & Absence Recording by Schools' - <https://www.education-ni.gov.uk/sites/default/files/publications/education/DE%20Circular%202017%2015%20Attendance%20Guidance%20%26%20Absence%20Recording%20by%20Schools.pdf>. This enables schools to record pupils' absences, the reasons for the absence and whether the absence is authorised or unauthorised. Attendance/absence of pupils is recorded by schools at the beginning of the morning and afternoon registration sessions.

16.9. This data was first collected and published by the Department as part of the October 2008 School Census exercise and will now be published annually. The information will be used to inform target setting on pupil attendance and once these have been developed, the Department will issue guidance to schools on how best to promote regular attendance and on approaches to early intervention.

16.10. Most pupils do go to school every day, however some pupils do experience difficulties in attending school for a variety of reasons. It is vital that parents and carers

ensure their child's regular attendance at school as it is their legal duty to do so. Not all parents will be aware of this, in particular parents of newcomer pupils.

16.11. The Board of Governors may wish to consider the position regarding the attendance of pupils at its school and how the school can engage with parents to ensure that regular attendance is promoted, taking account of any barriers to engagement e.g. language. The Board of Governors may ask the Principal for a regular report on pupil attendance with a view to ensuring that appropriate action is taken to encourage good attendance. Chapter 6 explains that pupil attendance can be used as a school performance indicator.

### **Retention and Access to School Registers**

16.12. All schools must hold copies of pupil attendance records and pupil registration records for not less than 10 years from the date on which the register ceased to be used.

16.13. School Inspectors and officers of DE and of the EA are entitled to inspect both registers and to make extracts from them. The Principal is required to make such periodical or other returns from the registers to DE and the EA as they may require.

### **Education and Welfare Officers**

16.14. Every school has a link Education Welfare Officer (EWO), employed by the EA, whose aim it is to reduce unnecessary absences from school by offering support and help to pupils, parents and schools. If a school is concerned about a child's attendance level or pattern or their attendance falls below 85%, they should make a referral to the Education Welfare Service.

16.15. The EWO can suggest things that parents can do to help improve matters, and can offer to go to the school with parents to talk to staff about any problems and how they can be addressed. They can also put parents in touch with other agencies that may be able to offer further advice. If the problem is of a practical nature, the EWO can offer advice about free school meals, access to transport assistance and uniform grants.

## **Compulsory School Age**

### **School Starting Age**

16.16. Where a child reaches the age of 4 on or between 1 September and 1 July in the same school year, the child has to start school at the beginning of the next school year.

16.17. Where a child reaches the age of 4 on or between 2 July and 31 August in the same calendar year, the child has to start school in the September following their fifth birthday.

## **Age of Transfer to Post-primary School**

16.18. A pupil with an eleventh birthday on or between 1 September and 1 July in the same school year must transfer to a post-primary school with effect from the start of the next school year.

16.19. Where a pupil's eleventh birthday falls on or between 2 July and 31 August in the same calendar year, they must transfer to a post-primary school with effect from the start of the school year following their twelfth birthday.

16.20. In certain circumstances the Board of Governors of a pupil's primary school may decide that a pupil should transfer to post-primary education a year earlier or a year later than the normal age; details of these arrangements are contained in DE Circular 1996/24.

## **School leaving age**

16.21. A pupil who reaches the age of 16 on or between 1 September and 1 July in any school year can leave school at the end of that school year.

16.22. A pupil who reaches the age of 16 on or between 2 July and 31 August in the same calendar year must return to school in September of the same year and cannot leave school until 30 June in following school year.

16.23. These arrangements are designed to ensure that all pupils complete 12 years at school and have the opportunity to sit their GCSEs.

## **The Law**

### **Primary Legislation**

Education and Libraries (NI) Order 1986 – Article 17A (*Regulations as to the carrying on of grant-aided schools*)

Education and Libraries (NI) Order 1986 – Article 46 (*Compulsory School Age*)  
Note: amended by the 1989 Order

Education and Libraries (NI) Order 1986 – Article 48 (*Registration of pupils at school*)

Education Reform (NI) Order 1989 – Article 156 (*Compulsory School Age*)

Education (NI) Order 1996 – Article 31(1) (*Date of commencement of secondary education*)

### **Subordinate Legislation**

Education Registration and Attendance of Pupils Regulations 1974 SR No. 78

## Guidance

<https://www.education-ni.gov.uk/publications/circular-199624-guidance-arrangements-transfer-pupils-primary-secondary-education-other>

DE Circular 2017/15 : Attendance Guidance & Absence Recording by Schools

<https://www.education-ni.gov.uk/sites/default/files/publications/education/DE%20Circular%202017%2015%20Attendance%20Guidance%20%26%20Absence%20Recording%20by%20Schools.pdf>

Post-primary transfer guidance from September 2016:

<https://www.education-ni.gov.uk/publications/circular-201615-procedure-transfer-primary-post-primary-education>

<https://www.education-ni.gov.uk/publications/miss-school-miss-out-improving-pupil-attendance-strategy>

## 17. Schemes to Assist Low Income Families

This chapter informs the Board of Governors of the assistance available to low income families in the form of free school meals and school uniform grants and the Education Maintenance Allowance (EMA) Scheme which applies to pupils aged 16+ in a grant-aided school.

### The Role of the Board of Governors

The role of the Board of Governors is to ensure that appropriate arrangements operate within the school with regard to these assistance schemes and to promote and encourage applications from those eligible for assistance.

### Free School Meals

17.1. Free school meals are provided to ensure pupils of 'non-working' and low income families have access to a nutritionally balanced meal, suitable as the main meal of the day. A pupil is entitled to free school meals where:

- the pupil or parent is in receipt of Universal Credit and has net earnings not exceeding £14,000 per annum; or
- the pupil or the parent is in receipt of Income Support or Income based Jobseeker's Allowance; or
- the pupil or the parent is in receipt of Income related Employment and Support Allowance; or
- the parent receives the Child Tax Credit or the Working Tax Credit and has an annual taxable income not exceeding an amount as determined by the Department<sup>4</sup>; or
- the parent receives Working Tax Credit "run-on" - the payment someone may receive for a further four weeks after they stop qualifying for Working Tax Credit; or
- the parent receives the Guarantee element of State Pension Credit; or
- the pupil has a statement of special educational needs and is designated to require a special diet; or
- the pupil is a boarder at a special school; or
- the pupil is the child of an asylum seeker supported by the Home Office National Asylum Support Service (NASS)<sup>5</sup>; or
- if none of the above apply and a child presents at school hungry, then the school should, on humanitarian grounds, provide free school meals to the child. This

<sup>4</sup> Eligibility under the Working Tax Credit criterion was introduced on a phased basis with Nursery, Foundation Stage and Key Stage I pupils eligible from September 2010 and Key Stage II pupils eligible from September 2011. It was extended to post-primary pupils from September 2014.

<sup>5</sup> In the interim period, until such time as the result of the application for NASS support is known, the EA should arrange to provide free school meals to children of asylum seekers enrolled in schools.

initial decision, taken by the school at the point of need, must be followed immediately with a referral to the Education Authority's (EA) Education Welfare Service (EWS). The school should continue to provide free school meals while the EWS is carrying out its assessment. If, following an initial assessment using the UNOCINI Assessment Framework<sup>6</sup>, the EWS is not satisfied that the Level 2 indicators are present (across the Child, the Parent Capacity and the Family and Environmental factors), the provision of free school meals should cease.

17.2. A further referral to the EWS for assessment for free school meals should not be made unless the school becomes aware of any change in the child's circumstances. Where the entitlement to free school meals on days when the child has neither food nor the means to pay for a meal is confirmed, it will be reassessed by the EWS prior to or at the beginning of each school year.

17.3. If the EWS or school finds that the child already has a social worker EWS will request that the social worker completes the assessment for Free School Meals and forwards the outcome of this in writing to the EWS.

17.4. In making their assessment, if the EWS determines that a child is a child in need<sup>7</sup> they should, in addition to making a determination about the child's entitlement to free school meals, make a referral to the Gateway Team of the local Health and Social Care Trust. This referral should be made on the basis of the completed UNOCINI which will enable the Gateway Team to establish if there is a need for the service to undertake any further assessment.

Note: Only pupils in full-time places in school are eligible to avail of a free meal.

17.5. Schools should inform the EA as soon as possible of any pupils being provided with free meals on humanitarian grounds and should provide the following details: pupil's name, date of birth, home address and period through which free meals are to be provided, together with confirmation of the previous school attended if they have recently moved school. The names and national insurance numbers of the pupil's parents should also be supplied where available.

17.6. The eligibility criteria are contained in the '[Arrangements for the Provision of Milk, Meals and Related Facilities](#)' approved by the Department of Education (DE).

17.7. The Education Authority is responsible for administering the award of free school meals. Chapter 20 of this Guide provides further information in relation to school meals.

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<sup>6</sup> The UNOCINI Threshold of Need Model can be viewed at [https://www.health-ni.gov.uk/sites/default/files/publications/dhssps/thresholds-of-need-model\\_0.docx](https://www.health-ni.gov.uk/sites/default/files/publications/dhssps/thresholds-of-need-model_0.docx)

<sup>7</sup> Under Article 17 of the Children (NI) Order 1995 (the Children Order) a child is in need if inter alia he is unlikely to achieve or maintain a reasonable standard of health or development without the provision of personal social services by a Health and Social Care Trust. Article 18 of the Children Order places a general duty on each Trust to safeguard and promote the welfare of children within its area who are in need and to provide a range and level of personal services appropriate to those children's needs.

## **School Uniform Grants**

17.8. The Clothing Allowances Scheme, drawn up and administered by the EA, provides assistance towards the cost of specific items of school uniforms and clothing for physical education (PE) for pupils at primary and post-primary schools or day pupils at special schools. The eligibility criteria are similar to those used for free school meals.

17.9. The wearing of a school uniform is not governed by legislation but falls to schools to determine. The day-to-day management of schools, including any rules regarding the dress of pupils, is a matter for school Principals, subject to any directions that might be given by the Board of Governors.

17.10. Therefore, the Scheme is not intended to cover the full cost of a uniform, rather it is designed to assist those in need with the cost of purchase. DE extended the scheme to primary school pupils from the 2009/10 school year. Eligibility under the Working Tax Credit criterion was introduced on a phased basis with Foundation Stage and Key Stage 1 pupils eligible from September 2010, Key Stage 2 pupils eligible from September 2011 and post-primary pupils from September 2014. From September 2017 five of the benefits in the eligibility criteria will be replaced by Universal Credit on a phased basis therefore a new UC criterion has been added (see 17.1).

17.11. DE has developed guidance for schools on school uniforms and the importance of taking account of cost, safety, equality and consultation with pupils and parents. The guidance is contained in Circular 2011/04– Guidance to Schools on School Uniform Policy available on the DE website.

## **Education Maintenance Allowances (EMAs)**

### **Eligibility Criteria**

17.12. Boards of Governors should be aware of the EMA Scheme operating in grant-aided schools with post-16 provision. EMAs are payable to pupils in schools with post-16 provision who:

- have their 16th, 17th, 18th or 19th birthday on or between 2 July in any year and 1 July in the following year
- come from households where the income is below a level determined by the Department for Economy (DfE) (for academic year 2017/18: £20,500 where the student is the only child in the household; and £22,500 where there is at least one other child eligible for child benefit in the household)
- are studying full time at school or doing at least 15 hours of guided learning in further education
- meet the residence and nationality criteria set out for the EMA Scheme

17.13. The allowance is intended to help cover the day-to-day costs that students have to meet when they stay on at school or college, such as travel costs, books and equipment for their course. Young people may be entitled to receive their EMA for a maximum of three years, up to a maximum of 117 positive or negative weekly



attendance confirmations (so long as their household income does not rise above the figure determined by DfE).

17.14. The EMA will be available over a 4-year period for those young people with special educational needs who may need additional time in education to achieve their potential.

17.15. Courses which attract EMAs are:

- GCSEs
- GNVQs
- NVQs
- AS Level / A-Level GCE
- Basic Skills Level 1

Any course that attracts a training allowance will not be covered by EMA.

### **Key Features of EMAs**

17.14. The key features of EMAs include:

- agreed payments are made fortnightly into the eligible pupil's bank account, subject to attendance on their course
- a £100 bonus is payable in January and June to pupils who make satisfactory progress in their learning. This involves the pupil agreeing specific learning goals with their teachers, so that their progress in learning over the term can be assessed
- if a student has special educational needs, payments can be made to a third party
- EMAs are paid in addition to other support and benefits provided by the Government. Thus, families do not lose out if a young person receives an EMA
- EMAs do not affect parents' or carers' Child Benefit
- EMAs do not affect any money a pupil may earn from a part-time job

17.15. Schools are responsible for:

- implementing the EMA Scheme and ensuring that it operates as efficiently and effectively as possible
- informing their pupils about the Scheme at the appropriate time
- advising and assisting pupils applying for an EMA
- agreeing the EMA Contract Part 1 with the pupil
- ensuring that pupils sign the Contract
- informing the Scheme Administrator (the Student Loans Company) that a pupil has enrolled, signed the EMA Contract Part 1 and is now eligible to receive:

(a) fortnightly payments if they attend school or

(b) a bonus if Part 2 of the Contract has been agreed and signed, and satisfactory progress in learning has been made

- monitoring attendance robustly
- informing the Scheme Administrator (the Student Loans Company) whether a pupil should receive their fortnightly payment or bonus
- administering an appeals process for pupils who may wish to challenge the reason for the school stopping their payments or bonuses
- keeping evidence to support their EMA payment decisions
- making records available to the DfE Audit Team for validation inspection upon request

## **The Law**

Education and Libraries (NI) Order 1986 – Article 51 (*Provision of Awards by the Department*) [DfE has executed a Service Level Agreement, delegating the administration and payment of EMA to the Student Loans Company (SLC)]

Education and Libraries (NI) Order 1986 – Articles 58 and 59 (*Provision of milk, meals and related facilities*)

Education and Libraries (NI) Order 1986 – Article 60 (*Provision of clothing etc. for pupils attending grant aided schools or institutions of further education*)

## **Guidance**

Arrangements for the Provision of Milk, Meals and Related Facilities – EA

<https://www.education-ni.gov.uk/publications/milk-and-meals-arrangements-education-authority-voluntary-grammar-and-grant-maintained>

Arrangements for the Provision of Milk, Meals and Related Facilities – Grant maintained Integrated Schools

<https://www.education-ni.gov.uk/publications/milk-and-meals-arrangements-education-authority-voluntary-grammar-and-grant-maintained>

Arrangements for the Provision of Milk, Meals and Related Facilities – Voluntary Grammar Schools

<https://www.education-ni.gov.uk/publications/milk-and-meals-arrangements-education-authority-voluntary-grammar-and-grant-maintained>

Further information about the EMA Scheme can be accessed on the nidirect website

<https://www.nidirect.gov.uk/articles/how-apply-money-learn-education-maintenance-allowance>

Circular 2011/04 – Guidance to Schools on School Uniform Policy

<https://www.education-ni.gov.uk/publications/circular-201104-guidance-schools-school-uniform-policy>

Scheme for the Provision of Clothing etc. for Pupils Attending Grant-aided Schools or Institutions of Further Education (Available from EA)

## 18. School Days of Operation and Closure

This chapter explains the statutory requirements relating to school days of operation and closure.

### The Role of the Board of Governors

The role of the Board of Governors is to ensure that the school complies with the statutory requirements regarding days of operation and closure.

### School Days of Operation and Teaching

18.1. A grant-aided school must be in operation for 200 days per year, less:

- 10 optional days, 5 of which are for staff training and development and
- any exceptional closures approved by DE

18.2. This means that all grant-aided schools must be open to pupils for 190 days, less any exceptional closure days approved by DE. Full-time teachers are required to be available for work on 195 days in any year (this includes 5 days training and development), of which not more than 190 days should involve teaching children in a classroom.

### Optional and Exceptional Closures

18.3. School teachers have access to 5 non-teaching days per year (commonly known as Baker Days) to undertake school-based training, development and improvement activities on a whole-school, departmental or individual teacher basis. Schools are closed to pupils on these days.

18.4. The Board of Governors has discretion to close the school for up to another five optional days. Also, any school may request an exceptional closure to deal with circumstances beyond its control, such as adverse weather conditions or burst pipes. The DE Circular 2017/14 School Optional and Exceptional Closures provides more detailed information on these types of closures.

### Closures for School Development Days

18.5. In addition to the Baker Days, School Development Days (SDDs) provide additional non-contact time for teachers to facilitate schools in considering school improvement and school development matters. Where a school decides not to use all or some of these school development days, it must be open as normal to pupils on these days.

18.6. DE issues a separate Circular setting out the number of SDDs approved for each school year; in the 2017/2018 school year schools are allowed to take up to 5 SDDs. DE Circular 2011/21 provides detail of what SDDs should be used for, the mechanisms for reporting the uptake and use of these days and the need to evaluate SDDs. Schools should include details in the Governors' Annual Report of the days on which

the school is closed to pupils to facilitate SDDs and the main activities carried out on each day. It is also recommended that this information is provided in the School Development Plan. Schools should ensure that the use of SDDs is having a positive impact on school improvement. DE will be examining how SDDs are being used by schools, what impact they have in relation to school improvement and also looking at the number of days available in order to identify whether any changes are required.

18.7. Proposals for using SDDs should be submitted to the Education Authority as early as possible in a school year so that:

- arrangements for support from Authority staff, if required, can be arranged
- transport and meals arrangements can be made efficiently

### **School Holidays and Fixed School Term Dates**

18.8. The EA will advise schools of the dates of school holidays and fixed school term dates for pupils in all grant-aided schools, taking account of the availability of school transport and school meals services. Schools are encouraged to adhere to these arrangements having regard to the circumstances of working parents with children at different schools.

18.9. At the end of each school year, the Principal of each school must provide the EA with a statement as in Form S.A.2 titled 'School Attendance of the schools operational days and holidays' in respect of the ensuing year. The form must be signed by the Principal and countersigned by the Chairperson or other authorised person representing the Board of Governors of the school. A copy of this form must be displayed in the school for the inspection and information of parents, who may take extracts or copies of it.

### **Length of School Day**

#### **Nursery Schools**

18.10. A nursery school must be open for at least 4 hours on each school day of which not less than 3 hours has to be spent on suitable training and activities.

#### **Primary Schools**

18.11. In a primary school, pupils enrolled in a class composed mainly of pupils who had not attained the age of 8 at the beginning of the school year, are required to attend school for a minimum of 3 hours per day, other than for Religious Education.

#### **Primary and Post-primary Schools**

18.12. In a primary and post-primary school, all other pupils are required to attend for a minimum of 4.5 hours per day, other than for Religious Education. The 4.5 hours must be in 2 sessions separated by a period of not less than half an hour. Generally, this means a primary or post-primary school is open for a minimum of 5 hours per day.

18.13. DE can change the requirements at paragraphs 10 and 11:

- when there are special circumstances connected with the organisation of a primary school
- in the case of primary or post-primary aged pupils for whom special instruction of a special nature is being provided

## **The Law**

### **Primary Legislation**

Education and Libraries (NI) Order 1986 – Article 17A (*Regulations as to the carrying on of grant-aided schools*)

Education and Libraries (NI) Order 1986 – Article 48 (*Registration of pupils at school*)

### **Subordinate Legislation**

Education Nursery Schools Regulations 1973 SR No. 400

Education Primary Schools: General Regulations 1973 SR No. 402

Education Secondary Schools (Grant Conditions) Regulations 1973 SR No. 403

Education Registration and Attendance of Pupils Regulations 1974 SR No. 78

## **Guidance**

DE Circular 2011/21: School Development Days

<https://www.education-ni.gov.uk/publications/circular-201121-school-development-days-201112-201415-school-years>  
[circular-201121-addendum-school-development-days](https://www.education-ni.gov.uk/publications/circular-201121-addendum-school-development-days)

DE Extension to Circular 2011/21: School Development Days

<https://www.education-ni.gov.uk/publications/school-development-days-201516-letter-schools>

DE Circular 2016/04: School Development Days 2016/17 & 2017/18 school years

<https://www.education-ni.gov.uk/publications/circular-201604-school-development-days-201617-201718-school-years>

DE Circular 2013/09: Teaching Days and Hours of Attendance

<https://www.education-ni.gov.uk/publications/circular-201309-teaching-days-and-hours-attendance>

DE Circular 2017/14 School Optional and Exceptional Closures <https://www.education-ni.gov.uk/sites/default/files/publications/education/Circular%202017%2014%20-%20School%20Optional%20and%20Exceptional%20Closures.pdf>

DE Circular 2013/19: School Optional and Exceptional Closures  
<https://www.education-ni.gov.uk/publications/circular-201319-school-optional-and-exceptional-closures>

## 19. School Fees, Charges and Remissions

This chapter provides information about the law governing the fees and charges that can and cannot be levied by the Board of Governors in respect of registered pupils at a grant-aided school and about requests for voluntary contributions to support the school and school activities.

### The Role of the Board of Governors

The role of the Board of Governors is to ensure compliance with the statutory requirements relating to school fees, charges and remissions and requests for voluntary contributions.

For ease of reference, the table below sets out the paragraphs in this chapter that apply to different types of schools.

Paragraph(s)	Application
1-23	all grant-aided schools <b>but not</b> : - Group B voluntary grammar schools - excepted pupils in grammar schools - schools in hospitals
24-26	Group A voluntary grammar schools (i.e. schools eligible for capital grants)
27	Group B voluntary grammar schools (i.e. schools <b>not</b> eligible for capital grants)
28-30	excepted pupils in all grammar schools
31+32	schools with boarding departments
33-35	all grant-aided schools
36	schools in hospitals

### General

19.1. With certain specific exceptions in relation to grammar schools, the law described here:

- maintains the right to free education for registered pupils at grant-aided schools
- establishes that activities organised wholly or mainly during the normal teaching time should be made available to registered pupils, regardless of the ability or willingness of their parents to meet the cost
- subject to specific remission arrangements, require parents to pay charges for board and lodging for their children at school or on residential trips
- maintains the right of a Board of Governors to invite voluntary contributions for the benefit of the school
- makes it clear that there is no statutory obligation on the Board of Governors to make any charge for any form of education or related activity in grant-aided schools



## Prohibited Fees and Charges

19.2. No fees or charges can be levied in respect of:

- the admission of a pupil to school
- education during school hours (excluding the lunch break) for registered pupils at school (excluding individual tuition in the playing of a musical instrument)
- education wholly or mainly outside school hours required as part of any syllabus for a public examination for which the pupil is being prepared by the school or provided to comply with the statutory requirement to deliver religious education or the curriculum
- the entry of a registered pupil for any public examination in any syllabus, for that examination for which the pupil is being prepared by the school
- materials, books, instruments or other equipment for use in connection with the education described above (paragraphs 20-23 also refer)
- transport incidental to education that must be provided free of charge. This means transport for pupils to or from any part of the school premises. It also means transport provided to and from a place outside the school premises, for education arranged by or on behalf of the Board of Governors and from and to the school premises or any other such place
- transport to enable the pupil to meet any examination requirement for any syllabus for a public examination, which is a syllabus for which the pupil has been prepared by the school

### **Educational activities partly during and partly outside school hours**

19.3. Non-residential educational activities provided partly during and partly outside school hours is Education during School Hours, if 50% or more of the time together with any travelling time falls during school hours.

19.4. Education on a residential trip provided partly during and partly outside school hours is Education during School Hours, if the number of morning and afternoon sessions the pupils would have attended at school is 50% or more of the number of half days, including travel time spent on the trip. Half or more of a morning or afternoon session at school counts as a full session. A half day spent on the trip means any period of 12 hours ending at noon or midnight on any day; 6 or more hours of a half day on the trip, counts as a full half day.

19.5. In both situations travelling time means any time spent by pupils on travel to or from the venue of the educational activity during school hours (excluding the lunch break).

19.6. In any other case, the education is treated as being outside school hours.

## **Permitted Charges**

### **Optional Extras**

19.7. A charge may be made in respect of:

- any optional extra education or transport provided by the Board of Governors wholly or mainly outside school hours for a registered pupil, with the agreement of their parents
- an optional extra entry of a registered pupil for any public examination in any syllabus for that examination with the agreement of their parents
- board and lodging on a residential trip

19.8. With the exception of individual tuition in the playing of a musical instrument, this excludes education, transport or examination fees described in paragraph 2 and home to school transport which is subject to separate arrangements.

19.9. The parent must indicate his or her wishes with regard to the provision or the optional extra and their willingness to pay the charge before the optional extra is provided.

### **Individual Tuition in the Playing of a Musical Instrument**

19.10. Individual tuition in the playing of a musical instrument provided for a registered pupil by the school, either during or outside school hours, is to be treated as an optional extra if it is not required as part of a syllabus for a public examination for which the pupil is being prepared by the school or specifically to fulfil the teaching of music as part of the statutory curriculum. As music tuition is normally provided by a school in a class or group setting, it is expected that individual tuition in playing a musical instrument would be provided, either as part of the preparation for an A level public examination course or as an optional extra.

### **Optional Extra Examination Entries**

19.11. This applies to public examinations for which the pupil has not been prepared by the school. The pupil may have received private tuition or be resitting an examination for which the school had earlier prepared him but no additional preparation had been given since the previous examination entry. A school may also pass on to the parent, any charge which may arise as the result of a parent's request to have a pupil's examinations results scrutinised.

### **Board and Lodging on Residential Trips for Day Pupils**

19.12. A charge may be made for board and lodging on a residential trip, irrespective of whether charges may be levied for the education provided through the school activity. The charge must not exceed the actual cost of board and lodging for the individual pupil.

## **Optional Extra Charges**

19.13. Where the Board of Governors funds the cost of the optional extra, it is responsible for determining whether a charge should be made and the amount of the charge. There is no obligation on the Board of Governors to provide optional extras or to charge for them.

19.14. When the Board of Governors decides to provide an optional extra, it must also decide whether to levy a charge on the parents. Any charge must not exceed the full per capita cost of provision for the individual pupil concerned. It can include an appropriate element for the pupil's travel, materials, books, instruments, non-teaching staff costs, entrance fees and insurance costs. It can include the costs of engaging a teacher under separate contract, specifically to provide the optional extra.

19.15. The Board of Governors must decide if the charge should equal the full per capita cost for the pupil or a lesser amount, which would be partly subsidised from school funds i.e. the school budget or private funds. Alternatively, the Board of Governors may decide to meet the full cost of the optional extra from school funds or from fund raising activities. Where fund raising is used, the criteria related to voluntary contributions applies.

19.16. Any charge levied is payable by the parent of the registered pupil to the Board of Governors. However, where the optional extra is being provided and funded by the EA and a charge is levied on the parent, the Board of Governors may subsidise or meet those charges from school funds on behalf of the parents of any registered pupil at the school.

19.17. No charge can be made unless the Board of Governors and the EA has in place a charges and remissions policy.

## **Charges and Remissions Policies**

19.18. The Board of Governors must have and must keep under review, a school charges and remissions policy which sets out clearly:

- the provision or cases of provision that it proposes to make charges for any optional extra or board and lodging for which charges are permitted
- the circumstances in which it proposes to remit in whole or in part, any charge payable to it in accordance with its own policy
- the circumstances in which it proposes to remit in whole or in part, any charge payable to the EA in accordance with the latter's charging policy for any optional extra or board and lodging provided for a registered pupil at the school

19.19. The remissions policy of the Board of Governors (and the EA) must provide for the complete remission of any charges otherwise payable for the board and lodging of a pupil on a school residential trip, where:

- the education on the trip must be free of charge (paragraph 2 refers)
- the parents of the pupil are in receipt of income support or family credit in respect of the period wholly or partly comprised in the time spent on the trip

Both conditions must be met to qualify for remission of these charges. The Board of Governors (and the EA) may if it wishes, operate a more generous remissions policy.

## **Materials, Books and Instruments**

19.20. A school is allowed to charge for, or require a parent to supply, any ingredients and materials to be used for the production in a course of education of an item which the parent wishes the pupil to own. Alternatively, the school may invite voluntary contributions towards the costs.

19.21. There is nothing to prevent the school from inviting parents to supply their children with certain items, such as pens and pencils and sports equipment, which will therefore remain the property of the pupil concerned. A parent may also wish to purchase a musical instrument for their child's personal use, inside and outside school.

19.22. When inviting voluntary contributions, a pupil cannot be excluded from an activity because their parents have failed to contribute towards the cost (paragraph 35 refers).

## **Breakages and Fines**

19.23. Although this is not covered by legislation, schools are not prevented from asking parents to pay for items lost, damaged or destroyed as the result of a pupil's behaviour. Parents should be made aware of the school's policy on such matters.

## **Group A Voluntary Grammar Schools (i.e. schools eligible for grant-aid on capital development schemes approved by DE)**

19.24. The Board of Governors of a voluntary grammar school that is eligible for 85% capital grants on an approved capital development scheme, may make a charge in respect of any registered post-primary pupil to meet the 15% balance of expenditure incurred or to be incurred in relation to:

- the provision or alteration to school premises
- the provision of equipment provided in connection with the provision or alteration of school premises

other than premises used wholly or mainly for boarding purposes. The amount of the charge may not exceed £140.

19.25. The Board of Governors of a voluntary grammar school which is eligible for 100% capital grants on an approved capital development scheme, may make a charge in respect of a registered post-primary pupil only to meet any outstanding deficit on a completed capital development scheme, which was 85% grant-aided by DE. The amount of this charge is set by DE.

19.26. The school's policy on charges and remissions should detail the circumstances in which this capital fee may be remitted in whole or in part. DE Circular 2008/19 offers guidance on this point.

## **Group B Voluntary Grammar Schools (i.e. schools not eligible for grant aid on capital development schemes)**

19.27. The Boards of Governors of these 2 schools are entitled, subject to regulations to make a charge in respect of any registered post-primary pupil – other than an excepted pupil – for the purpose of meeting expenditure required to carry on the secondary department of the school, other than expenditure that is grant-aided. In accordance with the Grammar Schools (Charges) Regulations (NI) 1992, the amount of any such charge must not be more than the amount of any corresponding charge made in respect of an excepted pupil. A charge cannot be made in respect of the entry of a registered post-primary pupil – other than an excepted pupil – for a public examination in any syllabus for that examination for which the pupil is being prepared by the school.

### **Excepted Pupils in Grammar Schools**

19.28. An 'excepted pupil' in a grammar school is:

i. any Pupil not resident in Northern Ireland

Any pupil who is a boarder in a grammar school boarding department meets the residency requirement and should not be classified as an excepted pupil solely because their parental home is outside NI. However, a boarder may be classified as an excepted pupil if they are in the preparatory department of the school.

ii. any Pupil whose parents are not resident nor EC nationals

These may be day pupils resident with friends or relatives or boarders at the school.

iii. Pupils in Grammar School Preparatory Departments

### **Charges for Excepted Pupils**

19.29. The Board of Governors of a grammar school in which an excepted pupil is registered may, subject to regulations, make charges of such amounts as it may determine in respect of that pupil. In accordance with the Grammar Schools (Charges) Regulations (NI) 1992, the charges for excepted pupils in grammar schools - other than in the Group B schools – must not include expenditure incurred or to be incurred in respect of:

- the provision or alteration to school premises
- in the case of a voluntary school, the provision of equipment provided in connection with the provision or alteration of school premises
- in the case of a controlled school, the provision of equipment which is an excepted item of expenditure under the LMS formula funding arrangements

19.30. With regard to the charges which may be levied in respect of the excepted pupils in a preparatory department, the arrangements are that, the tuition fee will be such, that together with grants provided through DE, will enable the department to be self-financing.

## **Charges for Board and Lodging at Boarding Schools**

19.31. The Board of Governors is responsible for levying a charge on the parent of a registered pupil who is provided with board and lodging at its expense.

19.32. Where the EA is satisfied that suitable education cannot be provided for a pupil resident in its area, otherwise than by the provision of board and lodging at a particular school, it will remit any charges payable by the parent to it or it will pay the charges to the Board of Governors. Where the EA is satisfied that payment of the full charges would cause financial hardship to the parent of a pupil ordinarily resident in its area, it will remit part or the whole of any charges payable to it or it will pay part or the whole of the charges to the Board of Governors, in order to avoid such hardship.

## **Charges for Educational Facilities and Services**

19.33. The Board of Governors of a grant-aided school may make available its educational facilities or services to any other school, institution, body or person and subject to regulations, may make charges for its facilities or services. Educational facilities means the equipment, premises and other property of the school and educational services includes services provided by teachers. At the present time such charges are not regulated.

## **Public Examination Entries**

19.34. The Board of Governors of a grant-aided school has a statutory duty to secure that, every registered pupil at the school is entered for each public examination and each specification for that examination for which the pupil is being prepared at the school. This does not require the pupil to be entered for a public examination in any specification, if the school has entered the pupil for another public examination in a corresponding specification. In such circumstances, the specification for one public examination is regarded as corresponding to the specification for another such examination, if the same course of study is provided at the school for both specifications. This duty does not apply where the Board of Governors considers that there are educational reasons for not entering that particular pupil for that examination or that specification in that examination and the parent of the pupil agrees or makes a written request to this effect.

## **Voluntary Contributions**

19.35. There is no prohibition on any request by or on behalf of a school Board of Governors for voluntary contributions for the benefit of the school or in support of activities organised by the school whether inside or outside school hours. However, the law requires that any such request must make it clear that:

- there is no obligation to make any contribution
- registered pupils at the school will not be treated differently according to whether or not their parents have made any contribution

19.36. Schools should be mindful of the spirit as well as the letter of the law and should ensure that:

- the voluntary nature of contributions is highlighted in all correspondence that requests them
- the design of stationery used for billing or invoicing, clearly distinguishes between any compulsory charges being levied and any voluntary component

Children and young people and their parents should not be asked why they have not paid voluntary contributions.

## **Schools in Hospitals**

19.37. Nothing in this chapter applies in relation to a school established in a hospital; but the law prohibits any charge being made in respect of admission to, or education or equipment provided to a pupil at, any such school.

## **The Law**

### **Primary Legislation**

Education Act 1947 – Section 104 (*Grants in Aid of educational services i.e. in grammar school preparatory departments*)

Education and Libraries (NI) Order 1993 – Article 48 (*Capital Charges in voluntary grammar schools*) Note: This amends Article 132 of the Education Reform (NI) Order 1989

Education (NI) Order 1998 – Article 72 (*Charges for educational facilities and services*)

Education Reform (NI) Order 1989 – Article 131 (*Charges and Remissions Policies*)

Education Reform (NI) Order 1989 – Article 133 – 134 (*Charges in Voluntary Grammar Schools*) Note: Article 132 is amended by the 1993 Order

Education Reform (NI) Order 1989 – Article 135 (*Charges for board and lodging at boarding schools*)

Education Reform (NI) Order 1989 – Article 136 (*Obligation to enter Pupils or Approved Examinations*)

Education Reform (NI) Order 1989 – Article 137 (*General and supplementary provisions*)

### **Subordinate Legislation**

Grammar School (Charges) Regulations (NI) 1992 SR No. 171

Grammar School (Charges) (Amendment) Regulations (NI) 2008 SR No. 376

## Guidance

DE Circular 1991/21: Education Reform (NI) Order 1989 – Charges in Grant-aided schools

<https://www.education-ni.gov.uk/publications/de-circular-199121-education-reform-ni-order-1989-charges-grant-aided-schools>

DE Circular 1999/06: Obligation to enter pupils for public examinations

<https://www.education-ni.gov.uk/publications/circular-199906-obligation-enter-pupils-public-examinations>

DE Circular 2008/19: Grammar Schools (Charges) (Amendment) Regulations (NI) 2008- Statutory Rule 2008 No. 376

<https://www.education-ni.gov.uk/publications/circular-200819-publication-voluntary-grammar-schools-regulations-and-circulars>

Ministry of Education Circular Letter S. 1950/22 (*Voluntary Grammar Schools Funding – preparatory departments*)



## 20. School Milk, Meals and Related Facilities

This Chapter explains the responsibilities of the Board of Governors in relation to the arrangements for the provision of meals in a grant-aided school.

### The Role of the Board of Governors

The role of the Board of Governors is to ensure that appropriate arrangements operate for the provision of school meals and to promote and encourage healthy eating by pupils in schools. In particular, the Board of Governors must ensure that school meals and other food and drinks provided in school (for example breakfast clubs, tuck shops, vending machines) comply with the nutritional standards.

### Background

20.1. The Education Authority (EA) is responsible for the provision of the school meals service in controlled and maintained schools. In voluntary grammar schools and grant-maintained integrated schools, responsibility for the provision of a school meals service lies with the Trustees/Boards of Governors. All school meals provided in grant-aided schools must comply with the Department's nutritional standards for school lunches. . In nursery, primary and special schools dinners should be provided on every school day for day pupils who wish such provision. In post-primary schools meals should be available on every school day for day pupils who are entitled to a free meal. Schools may also provide meals to those pupils who do not meet these mandatory requirements. Outside of the dining area food and drink provided in school or brought to school, is a matter for the Board of Governors and when provided by the school they should comply with the Department's nutritional standards for other food and drinks in school.

20.2. The school meals service has an important role to play in the development of social skills and the formation of good eating habits in young children. This has positive effects in the long-term, including the benefits of a healthier population. Research indicates that children who eat a nutritional meal during the day, maintain higher levels of concentration and demonstrate increased learning. In addition, the type of food and drink consumed can impact on behavioural patterns.



### Milk and Meals Arrangements and Nutritional Standards

20.3. The service is provided in accordance with the [Arrangements for the Provision of Milk, Meals and Related Facilities](#) drawn up by the Department of Education (DE). These are available on the DE website.


20.4. In particular, providers must comply with the DE nutritional standards for school lunches, which aim to help pupils make healthy choices, by providing a range of healthy meals, to convey the meaning and importance of a healthy diet and to contribute to a reduction in the levels of child obesity. Standards have also been drawn up in relation to other food and drinks provided in schools (for example breakfast clubs, tuck shops, vending machines etc.) and schools should adhere to these standards.

20.5. The standards only apply during normal school hours and do not therefore apply to boarding pupils after the end of the school day. The standards do not apply to special one-off functions, such as discos or club parties or fundraising events like school fairs or jumble sales. Neither do they cover food such as packed lunches brought from home by pupils, which is a matter for parents and schools to decide at local level. Packed lunches provided by the school must, however, comply with the standards.

20.6. Guidance in relation to the implementation of the nutritional standards is available in the following publications:

- [Nutritional standards for school lunches: a guide for implementation PDF 1.71 MB](#)  

- [Nutritional standards for other food and drinks in schools: a guide for implementation PDF 1.67 MB](#)  


These can be downloaded from the Public Health Agency's (PHA) website.

20.7. In addition the PHA has developed [School food: the essential guide](#)  
 to support the School food: top marks programme, which is a school food initiative by the PHA, DE and the Department of Health, Social Services and Public Safety (DHSSPS). The guide aims to provide practical advice and case studies to support all teachers, pupils, health professionals, caterers and others, in promoting and implementing healthier eating and drinking in primary and post-primary schools. The Guide can also be downloaded from the PHA website.

20.8. The arrangements also outline the categories of pupils who are entitled to free milk i.e. all pupils at special schools; pupils in nursery and primary schools who do not have access to school meals and individual nursery and primary school pupils, where it is deemed necessary in the interests of their health. Subsidised milk is also available to nursery, primary and post-primary pupils under the EU School Milk Scheme, administered by the Department of Agriculture, Environment and Rural Affairs (DAERA). It is a matter for individual schools to decide if they wish to participate in the scheme.

### **Types of Service**

20.9. Two main types of school meal service exist:

- a traditional meal comprising a main course and dessert
- a cash cafeteria service, where items are priced separately

Cash cafeterias tend to operate mainly in post-primary schools.

### **Charges**

20.10. The charge for any meal or refreshment provided should be sufficient to fully recover the variable costs and make a contribution to fixed costs in the controlled/

maintained sector and the full cost of production in VG and GMI sector. The charge is remitted in full where a pupil is entitled to free school meals.

### **Provision of Premises and Facilities**

20.11. Where the EA is providing a meals service to a school not under its ownership, it is required to enter into a contract or agreement, either by way of lease or otherwise, with the Trustees of the school before undertaking any alterations, erection of buildings or any other work relating to the provision of facilities for the service.

20.12. Facilities must also be provided at schools for the consumption of food brought to the school by day pupils. The facilities should include accommodation, furniture and supervision to enable pupils to eat in reasonable conditions, but does not extend to providing light equipment, such as cutlery and crockery or to facilities for cooking or heating food. Where there is spare capacity in the school meals dining room, this should be the first choice of accommodation for packed lunch takers. In the absence of such, alternative arrangements using assembly halls or classrooms should be made. Consideration should also be given to introducing staggered lunch breaks where feasible.

### **Free School Meals**

20.13. Free school meals are provided to ensure pupils of 'non-working' and low income families have access to a nutritionally balanced meal, suitable as the main meal of the day – see paragraph 1 of chapter 17 of this Guide for further details.

### **Food in schools policy**

20.14. The Department, in conjunction with DoH, has also drawn up a Food in Schools policy, which sets out the overall aims and objectives of their policy in relation to food in schools and describes the range of strategies and plans that are being put in place to deliver improved nutrition for our school children. The Food in Schools policy is an overarching policy advocating a 'whole-school approach' to all food provided and consumed in schools and developing knowledge and skills in relation to healthy eating and lifestyles. The policy has elements that are mandatory for all schools such as the Nutritional Standards for School Lunches and elements which are strongly recommended but which ultimately schools have discretion to decide upon within their local context, in consultation with pupils, parents and others. The policy applies to all grant-aided schools and came into effect from 24 September 2013. All grant-aided schools must adopt a whole-school approach to food and nutrition and should have in place their own whole-school food policy.

### **Healthy Breaks for Schools**

20.15. The PHA has produced guidance on healthy breaks for schoolchildren which is designed to assist primary schools to deliver a healthy break scheme. The resource pack – 'Healthy Breaks for Schools' – includes a poster for the schools to display and information leaflets for parents to explain why healthy breaks are important, as well as suggestions for the types of foods and drinks that can be included in a healthy break. Copies of the resources can be downloaded from the PHA's website.

## The Law

### Primary Legislation

Education and Libraries (NI) Order 1986 – Articles 58 and 59  
(*Provision of milk, meals and related facilities*)

### Subordinate Legislation

The Education (School Development Plans) Regulations (NI) 2010  
(*Arrangements for the promotion of the health and well-being of staff and pupils*)

### Guidance

DE Circular 2010/22: School Development Planning – Regulations and Guidance  
<https://www.education-ni.gov.uk/publications/circular-201022-school-development-planning-regulations-and-guidance>


DE Circular 2013/21: Healthy Food for Healthy Outcomes – Food in Schools Policy – PDF 109 KB  
<https://www.education-ni.gov.uk/publications/healthy-food-healthy-outcomes-food-schools-policy-0>


Arrangements for the Provision of Milk, Meals and Related Facilities – EA  
['Arrangements for the Provision of Milk, Meals and Related Facilities'](#)

Arrangements for the Provision of Milk, Meals and Related Facilities – Grant maintained Integrated Schools ['Arrangements for the Provision of Milk, Meals and Related Facilities'](#)

Arrangements for the Provision of Milk, Meals and Related Facilities – Voluntary Grammar Schools ['Arrangements for the Provision of Milk, Meals and Related Facilities'](#)

Healthy Food for Healthy Outcomes – Food in Schools Policy  
<https://www.education-ni.gov.uk/publications/healthy-food-healthy-outcomes>

Nutritional standards for school lunches: a guide for implementation  
[www.publichealth.hscni.net/publications/nutritional-standards-school-lunches-guide-implementation](http://www.publichealth.hscni.net/publications/nutritional-standards-school-lunches-guide-implementation) 


Nutritional standards for other food and drinks in schools: a guide for implementation  
[www.publichealth.hscni.net/publications/nutritional-standards-other-food-and-drinks-schools-guide-implementation](http://www.publichealth.hscni.net/publications/nutritional-standards-other-food-and-drinks-schools-guide-implementation) 

School Development Planning  
<https://www.education-ni.gov.uk/articles/school-development-planning>

School food: the essential guide

[www.publichealth.hscni.net/publications/school-food-essential-guide-and-irish-translation](http://www.publichealth.hscni.net/publications/school-food-essential-guide-and-irish-translation) 

Are you packing a healthy lunch?

[www.publichealth.hscni.net/publications/are-you-packing-healthy-lunch-english-and-irish](http://www.publichealth.hscni.net/publications/are-you-packing-healthy-lunch-english-and-irish) 

Healthy breaks for schools leaflet – English and Irish

<http://www.publichealthagency.org/publications/healthy-breaks-schools-leaflet-english-and-irish-translation>

Healthy breaks for schools poster – English and Irish

<http://www.publichealthagency.org/publications/healthy-breaks-schools-poster-english-and-irish-translation>

## 21. School Premises

This chapter describes the responsibilities of the Board of Governors regarding the school premises, including maintenance and health and safety and insurance issues. It also encourages the Board of Governors to promote the use of the school in the community.

### **The Role of the Board of Governors**

The role of the Board of Governors is to:

- ensure that the school premises and grounds are maintained
- maintain an inventory of equipment, furniture, plant and vehicles
- ensure health and safety on the premises
- prepare, maintain and implement an Accessibility Plan for disabled pupils
- promote and determine the arrangements, including charges and insurance cover for the wider use of the school in the community

### **Ownership**

21.1. Although Boards of Governors have wide ranging responsibilities for the management of schools, in most cases they do not actually own the premises which they manage. Details of schools' ownership arrangements are set out below.

#### **Controlled Schools**

The buildings and land of controlled schools are owned by the Education Authority (EA).

#### **Voluntary Grammar and Voluntary Maintained Schools (including Irish Medium)**

Voluntary grammar and maintained schools are in most cases owned by Trustees. For DE to pay capital grants to a voluntary school, the school premises must be 'vested' in the names of Trustees and the Department of Education (DE). This means that the premises cannot be disposed of without the consent of DE.

For Irish Medium schools which have satisfied DE's criteria for long-term viability and become eligible for capital grant-aid, the same arrangements apply.

#### **Grant Maintained Integrated (GMI)**

GMI schools which have satisfied DE's criteria for long-term viability, become eligible for capital grant-aid. Their buildings and land are usually owned by the Boards of Governors/Trustees and become vested in the names of the Board of Governors/Trustees and DE, in the same way as other voluntary schools.

## **Private Finance Initiative (PFI) and Public Private Partnerships (PPP) Projects**

21.2 Some schools have been procured through PFI or PPP arrangements and there will be a contract in place governing the relationship between the school and the contractor. PFI and PPP contracts have broadly the following characteristics:

- there will be a long term service contract between the school authority and the private sector operator
- there will be a Unitary Payment (monthly) from the school authority to the private sector operator
- there will be service delivery and performance standards
- there will be a performance-related payment mechanism
- there will be a Contract Manager who will manage the contract with the private sector operator on behalf of the school authority

## **Buildings and Grounds Maintenance**

21.3. The Boards of Governors of voluntary grammar schools and GMI schools are responsible for all maintenance in respect of their premises (including grounds) and receive funding for both 'landlord' and 'tenant' elements, under the terms of the DE's 'Common Funding Scheme' for Local Management of Schools (paragraph 3.16 refers).

21.4. The Boards of Governors of all other grant-aided schools are responsible, and receive funding, for 'tenant' maintenance only, with 'landlord' maintenance remaining the responsibility of the EA. The distinction between 'landlord' and 'tenant' maintenance is set out in Annex C of DE's 'Common Funding Scheme'. However, it is emphasised that, in some circumstances, neglect of maintenance, which falls within the 'tenant' category, can eventually result in the need for 'landlord' maintenance which would otherwise not be necessary. In such circumstances, the EA reserves the right to charge the cost of 'landlord' repairs to the school's delegated budget.

21.5. Except in the case of voluntary grammar and GMI schools, Boards of Governors do not have any responsibility for the maintenance of school meals accommodation.

## **Role of the Principal**

21.6. The Principal should ensure that the physical condition of the school is satisfactory and inform the governors of the state of the buildings and grounds and enlist their support in requesting maintenance and improvements. In a school procured under PFI/PPP, the Contract Manager will liaise between the Principal and the PPP Operator and the Principal will update the Board of Governors on these issues.

## **Scheme of Management**

21.7. The scheme of management for the school sets out the duties of the Board of Governors in relation to the school premises. All Boards of Governors should carry out an inspection of the premises and equipment of the school and record its findings, at least once in each school year. The findings should be copied to the trustees and the

EA in the case of controlled and voluntary maintained schools. The EA should be notified of any need for alterations or extensions to the premises of a controlled school and any other proposals for capital works.

### **Controlled and Voluntary Maintained Schools**

21.8. The Board of Governors of a controlled or voluntary maintained school may at any time, submit proposals to the EA relating to any repairs, maintenance or equipment considered necessary for the school, for which the Board of Governors has no delegated responsibility. Also, the Board of Governors may, if authorised by the EA, incur reasonable expenditure on emergency works of repair and maintenance to the school premises for which the Board of Governors has no delegated responsibility.

In carrying out its responsibilities for maintenance of school premises, Boards of Governors are required to comply with the Standing Orders and contracting procedures of the EA.

### **Schools Procured under PFI and PPP**

21.9. It is typical in a PFI or PPP contract for the private sector operator to be contractually responsible for providing building and grounds maintenance. A predetermined unitary charge is made monthly to the private sector contractor for these services, which are both planned and reactive in nature. The contribution by the school authority to the unitary payment is predetermined and subject to review (benchmarking) at predetermined stages.

### **Inventory of Assets**

21.10. Each school should maintain an inventory of equipment, furniture, plant and vehicles, in accordance with any requirements which may be specified by DE or the EA. The inventory should include not only items beyond such value as may be prescribed, but also items which are moveable and attractive for example cameras and DVD players. The inventory should include:

- date of acquisition
- description (including serial numbers)
- cost
- source of funding
- location

Under PFI, the private sector operator will provide an inventory of the assets which it provides. Where assets have been provided by the school, the school will be required to provide an inventory of these items. Such inventories should be kept up to date by the parties involved.

### **Health and Safety**

21.11. The EA and CCMS have certain responsibilities as the employer of staff in controlled and maintained schools. However, Boards of Governors of all schools have



a statutory duty to ensure health and safety on premises under their control; this includes, where appropriate, compliance with the directions of the Employing Authority. Individual staff members are liable for any breaches of the Board of Governors' duty caused by them.

Under the Control of Asbestos Regulations (Northern Ireland) 2012, those who manage and maintain the school have a duty to manage asbestos and protect those who use the school from the ill-health risks that exposure to damaged asbestos may cause. Schools are therefore required to have:

- A **Management Survey** which should provide sufficient information to enable the preparation of an Asbestos Register and the production of a plan to manage the risks.
- An **Asbestos Register** which should include a plan of the school and highlight where Asbestos Containing Materials (ACMs) have been found and the condition of any ACMs. This should be monitored and updated.
- A site specific **asbestos management plan** which outlines how ACMs will be dealt with and the roles/responsibilities of school staff in relation to ACMs.

Further information in relation to asbestos management in schools is available from the Health and Safety Executive website (<https://www.hseni.gov.uk/publications/hseni-leaflet-managing-asbestos-schools-checklist-schools> and <https://www.hseni.gov.uk/publications/managing-asbestos-schools-questions-and-answers> )

21.12. The categories of health and safety provision which Boards of Governors are required to meet from their delegated budgets are:

- purchase and maintenance of equipment, including some firefighting equipment (under PFI, this service is provided by the private sector operator, the cost of which is included in the unitary payment)
- non-structural repairs (under PFI, this service is provided by the private sector operator, the cost of which is included in the unitary payment, however, where damage occurs in the school and is deliberate the school will be required to fund repairs)
- all cleaning

## **Accessibility Plan**

21.13. Boards of Governors have a statutory duty to prepare, maintain and implement an Accessibility Plan, addressing the extent to which disabled pupils can participate in the school's curriculum. The school's physical environment is clearly one of the major factors affecting access to the curriculum. The Accessibility Plan must show how the physical environment is to be improved for the purpose of increasing, within a reasonable time, the extent to which pupils with a disability can take advantage of education and associated services provided by the school. (Paragraph 14 of chapter 12 Guide also refers.) The Board of Governors must keep the plan under review, ensure that it is properly implemented and report annually to parents on the steps they have taken to implement it.

## Promoting the Use of the School in the Community

21.14. The schools estate represents a significant public resource which could and should be more widely used by schools themselves and by the local community in which they are located. There are a range of educational and wider social benefits in encouraging stronger links between schools and the communities they serve. In recognition of the positive influence such involvement can have in helping children and young people to reach their full potential, the Department is committed to promoting greater community use of school premises.

21.15. School Boards of Governors also have an important role in helping communities to value education. School premises (including grounds) are a valuable community facility and schools are actively encouraged to consider making their premises available for wider use where possible. Governors should keep the community well informed about, what they have to offer, not only in terms of education provision, but also regarding the school's sporting, recreational, leisure or other facilities which may be made available for use. This is part of promoting good relations between the school and the wider community.

21.16. Decisions relating to the occasional/sessional use of school premises, including responsibility for setting charges for hire, rest with the Board of Governors. However, where a school is considering granting exclusive use to a third party through a lease/licence arrangement, then this will generally be the responsibility of the Body that owns the school premises.

- For a lease/licence involving a controlled school, it will be the EA who is a party to the legal agreement. The EA will obtain DE consent before entering into a legal agreement with a third party for use of school premises/grounds.
- For maintained (including Irish Medium), VGS and GMI schools, it is the trustees/Body in whom legal title is vested who enters into the agreement with the third party. However, DE's written consent is required before any agreement is signed.

Under PFI/PPP arrangements, the use of the school premises by third parties is by agreement of the school authority and the private sector operator.

### Guidance Toolkit

21.17. To assist Principals and Boards of Governors in providing community access to school facilities, the Department has developed guidance, [Community use of School Premises: A Guidance Toolkit for Schools](#), which outlines detailed advice on the practical issues which must be considered when making premises available for wider use as well as highlighting a range of good practice examples and recommended forms/templates that schools will find useful.

Key areas within the Guidance Toolkit include:

- Ownership and Control of School Premises
- Operational Management
- Health and Safety

- Child Protection
- Human Resources
- Finance

21.18 Whilst the Toolkit is a valuable source of help and support, it is recognised that the guidance may not provide answers to all the questions that schools may have regarding community use, therefore it may be necessary to seek further clarification or advice from the EA or other body as appropriate. A list of relevant contacts is included at Appendix 8 of the Toolkit.

## **Charging**

21.19. The Board of Governors cannot use the school's LMS budget to subsidise the hiring of any of its school premises. When establishing a charging structure it is recommended that schools follow best practice and therefore charge on the basis of full cost recovery i.e. charges levied on third party user groups for the use of school premises or facilities should fully cover any actual costs associated with such use, for example caretaking, cleaning and heating costs, wear and tear, etc.

21.20. Guidelines on charging are available from the EA. All income derived from the use of school premises must be credited to the school's LMS budget. For further information on charges, or other financial, legal or insurance requirements relating to the hire of school premises, refer to the above [Guidance Toolkit](#) or seek advice from the EA or other body as appropriate.

## **Insurance**

21.21. Boards of Governors should ensure that all insurances are effected and maintained, as are necessary to safeguard the school and its governors against all public liability and against the consequences of negligence on the part of any person employed by the Board of Governors or any defect in the buildings, premises, furnishings or equipment of the school whereby death, injury, loss or damage might result to any person in or upon the school premises.

21.22. Under existing arrangements, controlled schools have been covered by the self-insurance arrangement of the EA in respect of premises and equipment. In the case of maintained schools, the EA meets the costs of commercial premiums required to insure premises and equipment. For both controlled and maintained schools, premiums for public and employer's liability have been met by the EA. In the case of a school procured through PFI, insurance liabilities of the school authorities and that of the private sector partner are set out in the contract. Voluntary grammar and GMI schools meet all insurance costs from their delegated budget allocation, which contains an allowance for this purpose.

21.23. In the case of all schools, it is the responsibility of the Board of Governors to ensure that any vehicles owned by the school are fully insured. There are rare occasions when personal injury may occur in circumstances where there is no legal redress; for example, in the case of sporting accidents where there is not negligence on

the part of the school staff involved. Boards of Governors may wish to advise parents to arrange appropriate cover for their own children, if they believe it is desirable.

## **Capital Development Works**

21.24. The EA is responsible for undertaking condition and suitability surveys for the whole schools' estate, taking account of the guidance provided or approved by DE. The outcomes of these surveys are recorded on the EA's Estate Management System and will be used by DE to determine capital investment priorities.

## **The Law**

### **Primary Legislation**

Education Reform (NI) Order 1989 – Article 139 (*community schools – co-opted governors*)

Education Reform (NI) Order 1989 – Article 140 (*Community Use of Schools*)

Education (NI) Order 1996 – Articles 4-9 (*Accessibility Plans*)

Education (NI) Order 1998 – Article 7 (*Charges for Educational facilities and Services*)

Education (NI) Order 2005 – Article 18 (*Accessibility Plans*)

Health and Safety at Work (NI) Order 1978 – Article 6(2) (*breaches of duty by staff members*)

Special Educational Needs and Disability (NI) Order 2005 (*Accessibility Plans*)

### **Secondary Legislation**

The Control of Asbestos Regulations (Northern Ireland) 2012 (S.R. 2012 No. 179) – Regulation 4 (*Duty to Manage Asbestos in non-domestic premises*)

## **Guidance**

DE's 'Common Funding Scheme' for Local Management of Schools (paragraph 3.16 refers).

<https://www.education-ni.gov.uk/articles/common-funding>

Community Use of School Premises: A Guidance Toolkit for Schools

[https://www.education-ni.gov.uk/sites/default/files/publications/de/community-use-of-school-premises-a-guidance-toolkit\\_0.pdf](https://www.education-ni.gov.uk/sites/default/files/publications/de/community-use-of-school-premises-a-guidance-toolkit_0.pdf)

## 22. School Publications

This chapter identifies the information which the Board of Governors is required to publish in respect of a grant-aided school.

### **The Role of the Board of Governors**

**The role of the Board of Governors is to ensure that the school meets the statutory requirements in relation to the publication of information.**

22.1. The Board of Governors of a grant-aided school (other than a school established in a hospital) is required by law to publish:

- an annual school prospectus
- an annual Board of Governors' Report

The Board of Governors may delegate the work of compiling the information to a committee or to the school Principal.

22.2. The Education Authority (EA) may, with the agreement of the Board of Governors, publish on behalf of the Board of Governors, prescribed particulars or information relating to the school. Information about the school and other schools is included each year in the booklets published for parents by the EA, about the arrangements for the admission of pupils to schools. Information is provided annually by the Board of Governors to the EA and may not be altered except with the agreement of the Board of Governors.

22.3. The Board of Governors must make available at the school, copies of the following information for reference by any person, at all reasonable times during a school day and for distribution without charge to parents on request:

- the times at which the school day begins and end;
- the dates of the school terms and half-term holidays for the current school year
- particulars of the charging and remission policies determined by the Board of Governors (the EA is also under a requirement to make its charges and remissions policy available at the school)
- particulars of any capital charge made by a voluntary grammar school in the current school year; particulars of any tuition fee charged by a Group B voluntary grammar school in the current school year

Where any significant change is to be made in this information, 3 months advance notice must be given to parents of the change and when it is to take effect.

22.4. The Board of Governors must ensure that the Principal and each teacher on the staff on the school have a copy of its written curriculum policy statement and the school development plan. The Principal must make available to any person on request or for inspection at all reasonable times, the following documents or any documents containing the following information:

- the curriculum policy statement
- the school development plan
- any statutory instrument, document or memorandum or DE circular about the statutory curriculum
- any ETI report published about the school
- any course of study followed by pupils at the school
- particulars of how to make a statutory complaint about the curriculum

The Principal must provide on request a copy of the written curriculum policy statement or the Annual Report of the Board of Governors and may provide a copy of the other documents listed above, including an ETI Report but not a copyright document other than an ETI Report. A charge, not exceeding the cost of production, may be made for these documents, other than the Annual Report of the Board of Governors and the School Development Plan.

## **School Prospectus**

22.5. The school prospectus must include:

- in the case of a school other than a nursery school, the information listed in Schedule 3 to the Education (School Information and Prospectuses) Regulations (NI) 2003
- in the case of any other school, the information listed in Schedule 4 to the Education (School Information and Prospectuses) Regulations (NI) 2003
- such other information, if any, as the Board of Governors thinks fit

The Regulations set out the minimum requirements for a prospectus and schools are free to include additional explanatory, contextual or descriptive information about their provision or performance as they wish.

22.6. The information in Schedules 3 and 4 relating to a school year must be published in advance of that year and not later than 6 weeks before the date by which parents must express a preference for a school.

22.7. Copies of the prospectus must be available at the school free of charge for distribution to parents on request and for reference by anyone else. In the case of a Special School, the prospectus must also be available from the EA on the same basis.

## **The Board of Governors' Annual Report**

22.8. The Annual Report of the Board of Governors must contain:

- a summary of the steps taken by the Board of Governors in the discharge of its functions during the period since its last Report
- such other information as the Scheme of Management of the school may require

22.9. The Annual Report is required to:

- be as brief as is reasonably consistent with the requirements below
- give the name and membership category of each school governor
- give the date on which the term of office of each member (other than the Principal) comes to an end
- name the Chairperson and Secretary of the Board of Governors
- provide information about arrangements for the next election of parents to the Board of Governors
- contain a financial statement:
  - reproducing or summarising any financial statement furnished to the Board of Governors by the EA or DE
  - indicating how any grants or financial allocation to the Board of Governors in the period of the report were used
  - giving details of the application of any gifts or bequests made to the school in that period
- describe the arrangements made for the security of the pupils and staff and the school premises and any changes since the last Report
- describe the steps taken to develop links with the community
- describe the arrangements & facilities for pupils with special educational needs (SEN), ensuring that they are treated no less favourably than other pupils
- describe the steps taken to secure the implementation of the SEN policies
- provide information as to the facilities provided to assist access to the school for pupils with a physical disability and the Accessibility Plan for the school
- give such information on the curriculum and educational provision and educational achievements as is required to be made available in the annual report in accordance with Regulation 10 of the Education (School Information and Prospectuses) Regulations (NI) 2003

Further detail about the contents of the Annual Report is in the scheme of management approved by DE for the school and DE Circular 2003/15 listed under the Guidance section below.

22.10. The Board of Governors may produce its Report in such language or languages (in addition to English) as it considers appropriate.

22.11. The Board of Governors must take such steps as are reasonably practical to secure that:

- the parents of all registered pupils at the school and all persons employed at the school are given (free of charge) a copy of its Report
- copies of the Report are available for inspection (at all reasonable times and free of charge) at the school

A copy of the report must also be provided to the EA.

## Information Published by the Education Authority

22.12. The EA is required, for each school year, to publish at such time and in such a manner as the Department of Education (DE) may direct, particulars of:

- the arrangements made for the parents of a child to
  - express their order of preferences as to the school at which they wish education to be provided for their child
  - give reasons for this preference
- the arrangements for the parents of a child to appeal against any decision by the Board of Governors of a grant-aided primary or post-primary school refusing the child admission to the school
- the arrangements for the admission of children to grant-aided schools which include particulars of
  - the school's enrolment number
  - the school's admissions number
  - the respective functions of the Board of Governors and Principal in relation to admissions to the school
  - the criteria to be applied in selecting children for admission to the school

Further detail about the information required to be published by the EA is contained in the Education (School Information and Prospectuses) Regulations (NI) 2003.

## The Law

### Primary Legislation

Education (NI) Order 1997 – Article 17 *Admissions to primary and post-primary schools (Information as to schools and admission arrangements)*

Education (NI) Order 1998 – Article 15 *(Contents of Annual Report of Board of Governors)*

Education (NI) Order 1998 – Article 33 *Pre-School Education at Grant-aided Schools (Information as to schools and admission arrangements)*

Education Reform (NI) Order 1989 – Article 125 *(Annual Report of Board of Governors)*

### Subordinate Legislation

Education (School Information and Prospectuses) Regulations (NI) 2003 SR 378 *(Explains the information to be published by a School and the EA)* These Regulations will be updated to take account of the changes in the curriculum.



## **Guidance**

DE Circular 2003/15: Education (School Information and Prospectuses) Regulations (NI) 2003

<https://www.education-ni.gov.uk/publications/circular-200315-education-regulations-2003>

Community Use of School Premises: A Guidance Toolkit for Schools

[https://www.education-ni.gov.uk/sites/default/files/publications/de/community-use-of-school-premises-a-guidance-toolkit\\_0.pdf](https://www.education-ni.gov.uk/sites/default/files/publications/de/community-use-of-school-premises-a-guidance-toolkit_0.pdf)

## 23. School Records and Handling Information

This chapter describes the role and responsibilities of the Board of Governors in terms of the keeping, maintaining and transfer of pupil records. It also includes the requirements of the Data Protection Act and the Freedom of Information Act relating to the handling of requests from members of staff, pupils, parents and the general public for information held by a grant-aided school.

### The Role of the Board of Governors

The role of the Board of Governors is to ensure that the arrangements operated by the school for the retention, management and release of public records comply with statutory requirements.

23.1. Record keeping and the storage of information are important functions of both the administration and teaching staff of a school. School records include those pertaining to personal details of pupils, along with those of their academic performance; assessments and examination results; school policies; minutes of school-based meetings; including information received from the Department of Education (DE) and other education bodies, solicitors, press organisations and public bodies.

23.2. The legislation which affects the retention, management and release of public records is listed at the end of this chapter.

### Record Keeping

23.3. Each school has a responsibility to maintain its records and record keeping systems. Although schools will have their own methods of creating and keeping records and sharing information with staff, students, parents and the general public, they should be aware that, in doing so, they need to take account of matters such as:

- the most efficient and effective way of storing records and information i.e. paper or electronic forms
- the confidential nature of the records and information stored
- the security of the record system/s used
- privacy and disclosure
- their accessibility and to whom they are accessible

### Records Management

23.4. In reviewing their management of records, schools should consider:

- doing an information audit to identify the nature and scope of the information currently held by them
- ensuring that information is easily accessible to those who need access to it
- adopting a Records Management Policy on the management of records

- reviewing and implementing the disposal of information that is no longer required, by adopting a Disposal of Records Schedule

23.5. The Boards of Governors should be aware that each grant-aided school should have a Disposal of Records Schedule. A model 'Disposal of Records Schedule' has been approved for use by all schools in Northern Ireland (see Guidance documents below for access).

23.6. The school Principal is responsible for ensuring that records and information systems conform to the agreed management policy of the school.

## **Pupil Records**

### **Legal Requirements**

23.7. Article 24 of the Education (NI) Order 2006 and the Education (Pupil Records and Reporting) (Transitional) Regulations (NI) 2007, set out the requirement for Boards of Governors to make arrangements for pupil records to be transferred, when a pupil transfers to another school.

### **Arrangements relating to the transfer of pupil information when leaving a school**

23.8. Schools keep a formative record of progress and achievement for each pupil. The Department is currently considering how the scope of this record should be defined for the purposes of transferring information, when a pupil moves to another school. Following its consideration, the Department plans to make further regulations about this. The new regulations will build on the provisions currently set out in the Education (Pupil Records and Reporting) (Transitional) Regulations (NI) 2007.

23.9. The current requirements are for Boards of Governors to make arrangements to transfer a formal record of a pupil's academic achievements and progress, as well as their other skills and abilities, within 15 school days of a pupil transferring schools. This information should be transferred to the Principal or Board of Governors of a school to which a pupil transfers. If a pupil transfers to an independent school, the information should be transferred to the Principal or proprietor.

23.10. If the Principal or Board of Governors of a school (or proprietor of an independent school) to which a pupil transfers, requests the disclosure or transfer of any other educational records kept by the school, these should be provided, again within 15 school days and a copy should also be provided to the pupil's parent. Any information requested by a parent relating to their child's formative record of progress and achievement, should be provided free of charge or, if the Board of Governors determines, for a fee which does not exceed the cost of supply.

23.11. Boards of Governors are required to keep a statement of the arrangements relating to the transfer of pupil records, when a pupil transfers to another school. The arrangements need to provide for the parent, pupil, or the Principal or Board of Governors of a school (or proprietor of an independent school) to which a pupil is transferring, to appeal any decision refusing disclosure or transfer of information. Boards of Governors need to ensure, that in exercising their responsibilities, arrangements are **not** made for the disclosure, supply of copies, or transfer of any

documents which are the subject of an order, under section 30(2) of the Data Protection Act 1998.

## **Access Requests for Information Using Legislation**

23.12. Boards of Governors in all grant-aided schools have statutory duties under the Data Protection and the Freedom of Information Acts when dealing with requests for information from members of staff, pupils, parents and the general public.

**Note:** The Data Protection Act is due to be replaced by the General Data Protection Act (GDPR) from 25 May 2018.

### **The Data Protection Act 1998**

23.13. The Data Protection Act 1998 requires schools which collect and process personal information, to comply with a number of important principles regarding privacy and disclosure. As processors of personal information, schools must comply with the following eight principles which state that information must be:

- fairly and lawfully processed
- processed for limited purposes
- adequate, relevant and not excessive
- accurate and up to date
- not kept for longer than necessary
- processed in line with individuals' rights
- secure
- not transferred to other countries without adequate protection

To comply with these principles every school processing personal data must notify the Information Commissioner under the terms of the Act. Failure to notify is a criminal offence. Schools may see their current notification by checking the Data Protection Register, either by phoning 01625 545740 or online at <https://ico.org.uk/>. Your Employing Authority may be able to assist with this.

23.14. All schools must make sure that they comply with this Act which allows people such as members of staff, pupils and parents to find out what personal information is held about them in paper or electronic form. Members of the general public also have access to school information, such as minutes of meetings, policies and other types of non-personal information.

23.15. There are 2 distinct rights to information held by schools about pupils i.e. the subject access right and the parent's rights to the child's educational records.

### **The subject access right**

A pupil has the right to see their own information. This includes information held on computer or in structured files or in their educational record or in unstructured loose correspondence. Personal information may be withheld when the information is

covered by an exemption in the Act. The pupil must make a written request. The pupil is not required to be of any particular age but the school should take account of the ICO guidance regarding age and whether the child has requested the parent to act on their behalf and if the child properly understands what is involved in making the request and the type of information they will receive. Someone with parental responsibility can ask for the information on the child's behalf and receive a response but again the school should take account of the ICO guidance on responding to such requests. Parents will only be able to see all the information about their child when the child is unable to act on their own behalf or gives their consent. A pupil's information must only be released to a parent or guardian, where to do so, is in the best interests of the child.

### **Rights to educational records**

The parent's right to a copy of their own child's educational records. This includes a formal record of the pupil's academic achievements, other skills, talents and achievements and educational progress and other records, defined in the Schedule 11 of the Data Protection Act. Information covered by an order under section 30 of the Data Protection Act does not have to be disclosed.

23.16. More detailed advice, including information about charges for the provision of information, exemptions and how an exemption applies and timescales for replies is available from:

- the Information/Data Protection officers of the EA
- the Information Commissioner Office (ICO)
  - telephone 01625 545745
  - email: [ni@ico.gsi.gov.uk](mailto:ni@ico.gsi.gov.uk)
  - website <https://ico.org.uk/>
- the NI Regional Office 028 9051 1270

23.17. Where a person believes that they have been prevented from seeing or acquiring information to which they are entitled, they can complain to the Information Commissioner's Office.

### **THE GENERAL DATA PROTECTION REGULATION (GDPR)**

23.18. The GDPR was approved and adopted by the EU Parliament in April 2016, this will replace the Data Protection Act and comes into effect on **25 May 2018**. Providing a legal framework for keeping everyone's personal data safe by requiring organisations to have robust processes in place for handling and storing personal information.

23.19. The GDPR (and EC Regulation 2016/679) defines the personal data as 'any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

23.20. More specifically it can be anything from a name, photo, email address, bank details, posts on social networking websites, medical information, or even a computer's IP address."

"special categories" of personal data is the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be prohibited.

23.21. The GDPR has greater scope than the Data Protection Act 1998. If your school is already operating within the current DPA then that's a good start, but the new rules are significantly different in certain areas, such as:

### **The Right to be informed.**

23.22. The right to be informed encompasses your obligation to provide 'fair processing information', typically through a privacy notice. It emphasises the need for transparency over how personal data is used.

### **The right of access.**

23.23. Individuals will have the right to obtain confirmation that their data is being processed; access to their personal data; and other supplementary information – this largely corresponds to the information that should be provided in a privacy notice.

23.24. Information must be provided without delay and at the latest within one month of receipt. The period of compliance can be extended by a further two months where requests are complex or numerous. If this is the case, you must inform the individual within one month of the receipt of the request and explain why the extension is necessary.

### **Individuals are entitled to have personal data rectified.**

23.24. If it is inaccurate or incomplete. You must respond within one month but this can be extended by two months where the request for rectification is complex.

### **The right to erasure.**

23.25. The right to be forgotten. This right enshrines the principle of a data subject (typically an individual citizen) having the right to request that personal data held on them inappropriately must be erased.

### **The right to restrict processing.**

23.26. When processing is restricted, you are permitted to store the personal data, but not further process it. You can retain just enough information about the individual to ensure that the restriction is respected in future.

### **The right to data portability.**

23.27. Citizens have the right to request a copy of all personal data being processed on them.

### **The right to object.**

23.28. Citizens have the right to object to:

- processing based on legitimate interests or the performance of a task in the public interest/exercise of official authority (including profiling);
- direct marketing (including profiling); and
- processing for purposes of scientific/historical research and statistics.

### **Rights in relation to automated decision making and profiling.**

23.29. The GDPR provides safeguards for individuals against the risk that a potentially damaging decision is taken without human intervention. These rights work in a similar way to existing rights under the DPA.

### **Data Breaches**

23.30. Under the new rules data breaches must be reported to the Information Commissioners Office (ICO) without delay and where feasible within 72hrs.

### **Financial Penalties**

23.31. Failure to comply with the new GDPR could in extreme cases result in a fine of up to 4% of annual global turnover or €20 Million (whichever is greater).

### **Key Issues**

23.32. **Consent** - it must be made clear whenever an organisation wishes to collect and use citizen data, with organisations expected to be able to prove that citizens have opted in. When obtaining 'consent' from individuals, it must now be explicit and specific. The old rules placed the onus on the individual to ask to be removed from a mailing list. In future, businesses must ask for consent from the very start

23.33. **Information Audit Register** - to record what personal data is currently held, where it is held, what it is used for etc.

23.34. **Privacy Impact Assessment (PIA)** - This applies to all new projects/policy that involve the processing of personal or sensitive personal data and for any changes to current policies/procedures/processes that involve the processing of personal or sensitive personal data.

23.35. **Privacy by Design** - is a legal requirement with the GDPR. It calls for the inclusion of data protection from the onset of the designing of systems, rather than an addition. Data controllers should only hold and process data absolutely necessary for

the completion of its duties (data minimisation), as well as limiting the access to personal data to those needing to act out the processing.

**23.36. Privacy notices** - by checking your current privacy notices (the text that describes what you use data for), you can put a plan in place for making necessary changes ahead of the introduction of the GDPR.

**23.37. Storing information on children** - requires parental or guardian consent, so verification of individuals' ages will be required to facilitate the proper consent procedure.

**23.38.** More detailed advice, including information about charges for the provision of information, exemptions and how an exemption applies and timescales for replies is available from:

- the Information/GDPR officers of the EA
- the Information Commissioner Office (ICO)
  - telephone 01625 545745
  - email: [ni@ico.gsi.gov.uk](mailto:ni@ico.gsi.gov.uk)
  - website: <https://ico.org.uk/>
  
- the NI Regional Office 028 9051 1270

### **The Freedom of Information Act 2000**

**23.39.** The Freedom of Information Act came into force in 2005. In the context of schools, the Act deals with access to information and provides individuals or organisations with the right to request such information under the Act. Schools are also required to make information available proactively through a Publication Scheme. All requests for information should be handled promptly, but normally not later than 20 working days.

**23.40.** The Publication Scheme is a guide to the information which the school has committed itself to publishing i.e. to make information routinely available on request. Schools must publish information in accordance with its scheme, which should be reviewed from time-to-time. In adopting or reviewing a publication scheme, Boards of Governors must have regard to the public interest in:

- allowing access to the information that schools hold
- the publication of reasons for its decisions

The Publication Scheme must set out:

- 'classes' or categories of information the school publishes
- the form in which the information is published
- whether or not charges apply



Schools are free to publish information over and above that described in the model scheme.

In some instances, schools may charge a fee (calculated according to the Fees Regulations), for the release of information.

A model Publication Scheme for schools and guidance can be accessed on the ICO website.

## **Exemptions**

23.41. Some information is exempt from disclosure. The Act identifies exemptions categorised as 'Absolute' and 'Qualified'. For example, in relation to personal information belonging to the requestor or if disclosure would result in an actionable breach of confidence, these are regarded as absolute and it is not necessary to go on to consider disclosure in the public interest.

If a school believes that the information requested is covered by a qualified exemption, it must apply the public interest test, i.e. the information is withheld because it considers that the public interest in withholding the information is greater than the public interest in disclosing it.

Please refer to the FOI Act 2000 for list of 'Absolute' and 'Qualified' exemptions, or access the ICO website <https://ico.org.uk/> for guidance on the FOI Act, including exemptions.

## **Request for information not routinely published by a School**

23.42. The public has the right to request information held by a school which has not already been made available through its Publication Scheme. Requests for information must:

- be made in writing or by email
- include the name and address (if in writing) of the applicant
- describe the information requested

Schools must tell the applicant whether it holds the information requested and normally provide it in the format requested as promptly as possible within 20 days.

23.43. Schools do not have to confirm or deny the existence of information requested or provide it if they can demonstrate that:

- the request is vexatious or similar to a previous request
- the cost of compliance exceeds an appropriate limit

If a school withholds information requested:

- it will usually be required to explain to the applicant why they are not releasing the information, by citing the appropriate exemption and considering the public interest test, where applicable

- in all original decision notices, whether releasing information or not, schools should provide in their responses (normally issued by the Principal), the contact details of an independent decision maker, to allow an applicant to seek an internal review of the decision, if they so desire. That person would ideally be the chairperson of the Board of Governors who will notify the applicant of their findings promptly, but normally not later than 20 working days. In the same decision notice, the applicant should also be advised, if they are not satisfied with the outcome of the internal review, then they have the right to complain to

The Information Commissioner  
 Wycliffe House  
 Water Lane  
 Wilmslow  
 Cheshire  
 SK9 5AF

who will undertake an independent review.

It is a criminal offence for schools to alter, deface, block, erase, destroy or conceal information to prevent disclosure.

23.244. More detailed advice about the Freedom of Information Act including the Publication Scheme for Schools is available from:

- the Information/Data Protection officers of the EA
- the Information Commissioner Office (ICO) telephone 01625 545745, email: [ni@ico.gsi.gov.uk](mailto:ni@ico.gsi.gov.uk), website <https://ico.org.uk/>
- the NI Regional Office 028 9051 1270.

## **The Law**

### **Primary legislation**

Data Protection Act 1998

Education (NI) Order 2006 – Article 24 (*Provision of Information*)

Freedom of Information Act 2000

Public Records Act (NI) 1923

### **Subordinate Legislation**

Disposal of Documents Order SR&O 1925 No 167

Education (Pupil Records and Reporting) (Transitional) Regulations (NI) 2007 Statutory Rule No 43 (*The keeping and transferring of pupil records*)

Education (Pupil Reporting) Regulations (NI) 2009

## Guidance

Data Protection Act 1998

[www.legislation.gov.uk/ukpga/1998/29/contents](http://www.legislation.gov.uk/ukpga/1998/29/contents)

General Data Protection Act (GDPR) Overview

<https://ico.org.uk/for-organisations/data-protection-reform/overview-of-the-gdpr/>

Data Protection Technical Guidance Note: Access to a pupil's information held by schools in NI

[http://www.belb.org.uk/Downloads/foi\\_access\\_to\\_personal\\_information\\_held\\_by\\_schools\\_in\\_NI.pdf](http://www.belb.org.uk/Downloads/foi_access_to_personal_information_held_by_schools_in_NI.pdf)

DE Circular 2003/15: Education (School Information and Prospectuses) Regulations (NI) 2003

<https://www.education-ni.gov.uk/publications/circular-200315-education-regulations-2003>

DE Circular 2015/21: School Obligations – Information Governance and C2K access to SIMS data

<https://www.education-ni.gov.uk/publications/circular-201521>

DE: Schools Model Disposal of Records Schedule (2013 - 2016)

<https://www.education-ni.gov.uk/articles/disposal-school-records>

DE: 2016/20 – Child Protection records Keeping in Schools

<https://www.education-ni.gov.uk/publications/circular-201620-child-protection-record-keeping-schools-0>

Freedom of Information Act 2000

[www.opsi.gov.uk/acts/acts2000/ukpga\\_20000036\\_en\\_1](http://www.opsi.gov.uk/acts/acts2000/ukpga_20000036_en_1)

## Glossary

ALC	Area Learning Communities
AMPs	Asset Management Plans
CCMS	Council for Catholic Maintained Schools
CCEA	Council for the Curriculum, Examinations & Assessment
CPSSS	Child Protection Support Service for Schools
C2K	Classroom 2000
DE	Department of Education
DEL	Department of Employment and Learning
DHSSPS	Department of Health Social Services and Public Safety
EA	Education Authority
EF	Entitlement Framework
EMA	Education Maintenance Allowance
EPD	Early Professional Development
EA	Educational Authority
ETI	Education and Training Inspectorate
EWO	Education Welfare Officer
FOI	Freedom of Information
GCSE	General Certificate of Secondary Education
GTCNI	General Teaching Council for Northern Ireland
HPA	Health Promotion Agency
HR	Human Resources
ICO	Information Commissioners Office
ICT	Information and Communications Technology
IMEI	International Mobile Equipment Identity
ISA	Independent Safeguarding Authority
JNC	Joint Negotiating Council
LMS	Local Management of Schools
LRA	Labour Relations Agency
NI	Northern Ireland
PHA	Public Health Agency
PPP	Public Private Partnership (a term for the development of projects including school building projects involving both the private and public sectors)
PRSD	Performance Review and Staff Development
SDDs	School Development Days
SEN	Special Educational Needs
SENDO	Special Educational Needs and Disability Order
SMT	Senior Management Team
TNC	Teachers Negotiating Committee
TSO	The Stationery Office

## Appendix 2

### The Seven Principles of Public Life (Nolan Principles)

The Seven Principles of Public Life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The Principles also have application to all those in other sectors delivering public services.

**Selflessness** - Holders of public office should act solely in terms of the public interest.

**Integrity** - Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**Objectivity** - Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**Accountability** - Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**Openness** - Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**Honesty** - Holders of public office should be truthful.

**Leadership** - Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix 3

### Policies, Schemes, Procedures Required by Schools

Nature of Policy	Statutory or Non Statutory	Primary or Subordinate Legislative Authority
Curriculum	Statutory requirement for schools to make, and keep up to date, a written statement of their policy in relation to the curriculum for the school	Article 12 of the Education (NI) Order 2006
Role of Governors, Principals and other leaders in schools in supporting school improvement and pupils' development of literacy and numeracy	Non statutory	Every School a Good School – A Policy for School Improvement. Count, Read; Succeed – A Strategy to Improve Outcomes in Literacy & Numeracy
Education of children with special educational needs in an ordinary school	Statutory	Articles 4, 8 and 9 of the Education (NI) Order 1996
School Discipline/Preventing Bullying	Statutory requirement for schools to have in place measures to promote good order and in particular to prevent all forms of bullying among pupils	Article 3 of the Education (NI) Order 1998 as amended by Article 19 of the Education and Libraries (NI) Order 2003
Child Protection	Statutory requirement for schools to have a child protection policy and to implement it	Article 18 of the Education and Libraries (NI) Order 2003
Drugs	Statutory requirement for schools to publish a statement of the school's policy on education in relation to the misuse of drugs	Paragraph 20 of Schedule 3 to the Education (School Information and Prospectuses) Regulations (NI) 2003
Relationships and Sexuality Education (RSE)	Non statutory. The Department considers that every school should have a policy setting out how the school will address RSE within each pupil's curriculum	Paragraph 5 of Circular 2015/22

Open Enrolment	Statutory	Education (NI) Orders 1997, 1998 and 2006 and subordinate regulations
Class Sizes – Years 1-4 (maximum of 30 pupils)	Statutory	Regulation 4 of the Class Sizes in Primary Schools Regulations (NI) 2000 and Article 5 of these Regulations set out the exceptions to the statutory limit on class size
Class Sizes in Practical Subjects	Statutory	Regulation 15 of the Secondary Schools (Grant Conditions) Regulations (NI) 1973 and Circular 2004/5, 2013/07 and 2016/11
Schemes of Management for grant-aided schools	Statutory	Article 123 of the Education Reform (NI) Order 1989
Exceptional closure days	Non-statutory	DE Circular 2017/14
Election of parents and teachers for appointment to schools' Boards of Governors	Statutory	Schedules 4-7 of the Education and Libraries (NI) Order 1986 and Circular 2013/22
Information that must be included in a school's prospectus and the Annual Report of the Board of Governors	Statutory	Education (School Information and Prospectuses) Regulations (NI) 2003 and Circular 2003/15
Setting targets for the overall performance of pupils at the school. These targets, and the actions that flow from them, should be included in the school Development Plan <b>(excluding Nursery and Special Schools)</b>	Statutory	Education (Target-Setting in Schools) Regulations (NI) 1998  The Education (School Development Plans) Regulations (NI) 2010
Duties in relation to the keeping, transfer and disclosure of pupil records <b>(excluding nursery schools)</b>	Statutory	Article 24 of the Education (NI) Order 2006 and The Education (Pupil Records and Reporting) (Transitional) Regulations (NI) 2007 and The Education

		(Pupil Reporting) Regulations (NI) 2009
Duty to securing that pupils are assessed as required and to (a) make such reports and returns; and (b) give such information as the Department may reasonably require for the purposes of its functions under any statutory provision	Statutory	Articles 9 and 13 of The Education (NI) Order 2006; Article 37 of The Education and Libraries (NI) Order 2003 and The Education (Assessment Arrangements) (Foundation to Key Stage 3) Order (NI) 2007. See also DE Circular 2015/08
Statutory duty to ensure that pupils are entered at the appropriate times for examinations	Statutory	Article 136 of The Education Reform (NI) Order 1989
Guidance policy for schools on Security and Personal Safety in Schools in relation to Health and Safety	Non-statutory – Guidance and advice	Article 4(3) of the Health and Safety At Work (NI) Order 1978  Guidance issued May 1997
Policy with respect to the provision of, and the classes or descriptions of case in which it proposes to make charges for, any optional extra or board and lodging in respect of which charges may be permitted	Statutory but not applicable to voluntary grammar schools which have not entered into an agreement with DE under Schedule 6 of the Education and Libraries (NI) Order 1986 – Article 127(2) of the 1989 Order refers	Article 131 of the Education Reform (NI) Order 1989
School Starting Age – where a child reaches 4 on or between 1 <sup>st</sup> September and 1 <sup>st</sup> July in the same school year, the child has to start school at the beginning of the following school year, when he is 4 but not yet 5 years of age. Where a child reaches the age of 4 between 2 July and 31 August in the same calendar year, the child has to start school in September of the next calendar year when he will be 5 years of age.  A pupil who reaches the age of 16 on or between 1 <sup>st</sup> September and 1 <sup>st</sup> July in the same school year, can leave school on 30 June in that school year. A pupil who reaches the age of 16 between 2 July and 31 August in the same year, cannot leave school until 30 June in the	Statutory – Every child should receive 12 years of high quality educational provision that meets their needs, interests and aspirations and enables them to fulfil their potential	Education and Libraries (NI) Order (1986) – Articles 45, 46 and Article 46a and Schedule 13.  <a href="#">School Starting Age - A Guide for Parents</a>



next calendar year.		
Staff Disciplinary procedure	Statutory  Non Statutory	Schedule 4 of the Education Reform (NI) Order 1989 as amended by Schedule 2 of the Education (NI) Order 1998.  TNC 2016/2 & TNC 2016/3 DE Circular 2015/13
Staff Grievance procedure	Statutory  Non Statutory	Schedule 4 of the Education Reform (NI) Order 1989 as amended by Schedule 2 of the Education (NI) Order 1998.  TNC 2014/6 & TNC 2014/6 Annex A
Staff Salary Policy	Non Statutory	DE Circular 1993/24 Guidance for Boards of Governors on The Formulation and Implementation of Salary Policy DE Circular 2016/24 DE Circular 2016/23 DE Circular 2011/17
Staff Training & Development	Non Statutory	PRSD TNC 2014/1
Teacher redundancies procedure	Statutory  Non Statutory	Schedule 4 of the Education Reform (NI) Order 1989 was replaced by Article 58 and Schedule 2 of the Education (NI) Order 1998  TNC 2010/1
Termination of employment of teachers on the grounds of ill health or capability	Statutory  Non Statutory	Teachers' (Eligibility) Regulations (NI) 1997 No 312 as amended by Teachers' (Eligibility) Regulations (NI) 2006  TNC 2013/1

Teachers' pay / sick pay / leave of absence determinations	Statutory  Non Statutory	Article 69(1) and (6) of the Education and Libraries (NI) Order 1986 Teachers' Salaries Regulations (NI) 1993 No. 318 (as amended) 1993 No. 403 and No. 447  Annual Teacher Pay Determinations (Issued as Department Circulars) DE Circular 2016/24 & DE Circular 2016/23 TNC 2014/2 TNC 2014/3 TNC 2014/4 TNC 2014/5
'Every School a Good School' School Development Planning	Statutory	The Education (School Development Plans) Regulations (NI) 2010 No. 395 School Development Planning Guidance 2010. School Development Planning Circular 2010/22. School Development Planning & Target Setting (Primary) Circular 2017/06 School Development Planning & Target Setting (Post-primary) Circular 2017/08 School Development Days Circular 2016/04
School Parental Complaints Procedure	Non Statutory	Letter of 21 March 2012 from DE to all schools
Whole-School Food Policy	Non Statutory	DE Circular 2013/21
School Uniform Policy	Non Statutory	DE Circular 2011/04
Children and Young People's Strategy	Statutory	Children's Services Co-operation Act (NI) 2015

## **Additional employment policies**

As a consequence of Employment law and/or agreements reached through the arrangements for negotiating staff remuneration and terms and conditions of service:

- Maternity Leave Scheme
- Adoption Leave Scheme
- Paternity Leave Scheme
- Parental Leave Scheme
- Career Break Scheme
- Promoting a Dignified Workplace – A Policy Statement and Code of Practice on Measures to Combat Bullying and Harassment of Teaching Staff in Schools
- Job Share Scheme
- Assault on Teachers – Indemnification
- Smoking Policy for Schools
- Managing Attendance
- School Reorganisation Agreement
- Alcohol and Drug Misuse Policy
- Procedure for Supporting Effective Leadership by School Principals
- Procedure for Supporting Effective Teaching in Schools
- Guidance to Board of Governors on the Formulation and Implementation of Salary Policy
- Performance Review and Staff Development Scheme
- Procedures for Teachers who Work with VDUs and who Wish to Apply for Eye screening Test
- Whistleblowing Policy
- Flexible Working Scheme
- Dealing with an Allegation of Abuse against a Member of Staff (Child Protection)
- Disciplinary Procedure
- Grievance Procedure
- Mediation Procedure
- Workload Agreement
- Protocol for Home – School eLearning

## Appendix 4

### Parental Rights and Responsibilities

1. Article 44 of the Education and Libraries (NI) Order 1986 (the 1986 Order) sets out the general principle that, “so far as is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, pupils shall be educated in accordance with the wishes of their parents”.
2. Article 45 of the 1986 Order places a duty on the parent of a child of compulsory school age to make sure that they receive efficient full time education suitable to their age, ability and aptitude and to any special educational needs that they may have, either by regular attendance at school or otherwise.
3. In education legislation, ‘parent’ in relation to a child or young person includes any person who has parental responsibility for them or care of them.

### Parental Rights

4. Parents have considerable rights in law in relation to their children’s education. The following are some of the rights that parents have under current education legislation:
  - Article 9 of the Education (NI) Order 1997 provides for parents to express their preferences in respect of the admission of their child to a school
  - Article 15 of the Education (NI) Order 1997 enables parents to appeal against certain school admission decisions
  - Article 21 of the 1986 Order enables parents to request that their child be withdrawn from religious education and collective worship
  - Article 24 of the Education (NI) Order 2006 entitles parents to receive an annual report about their child’s progress at school
  - Article 49 of the 1986 Order (as substituted by Article 39 of the Education and Libraries (NI) Order 1993) provides for parents to appeal against a decision by school authorities to expel their child from school (if the child is under the age of 18). Article 32 of the Education (NI) Order 2006 will replace these provisions when commenced
  - Article 136 of the Education Reform (NI) Order 1989 provides for parents to make a written request that their child is not entered for an examination
  - Article 125 of the Education Reform (NI) Order 1989 provides for parents to receive a copy of the Board of Governors’ Annual Report
  - Schedules 4, 5, 6 and 7 to the 1986 Order and Schedule 5 to the Education Reform (NI) Order 1989 provide for parents to stand for election and vote in the election to be a parent governor of the school
  - Article 70 of the Education Reform (NI) Order 1989 provides for parents to vote in ballots to change the school’s status to grant maintained integrated or controlled integrated

- The Education (School Information and Prospectuses) Regulations (NI) 2003 require schools to provide parents with a wide range of information relating to access to school policies, school daily start and closing times, pupil dress, school meals arrangements, school holidays, etc.
  - The Freedom of Information Act 2000 (DE Circular 1999/17 refers) also provides parents with rights of access to information regarding their children
5. Also
- The statutory Code of Practice on the Identification and Assessment of Special Educational Needs provides for parents to be consulted during the statutory assessment and statementing process, where their child has special educational needs and to give any necessary approval
  - The scheme of management provides for parents to receive a summary or a copy of the full report on their child's school, issued by the Education and Training Inspectorate (ETI) following an inspection of the school by the ETI
6. In addition, it is best practice to:
- provide parents with the opportunity to discuss their child's progress at school with the classroom teacher
  - invite parents to give permission for activities such as school trips, after school activities and medical or dental examinations
  - facilitate a School Parents' Association

## **Parental Responsibility**

7. The Children (NI) Order 1995 introduces the concept of parental responsibility; it states who automatically has this responsibility and how it may be acquired by others. The possibility of others acquiring parental responsibility has implications for schools – those who acquire parental responsibility, generally have the same rights as parents under current education legislation and may wish to exercise them.

8. 'Parental responsibility' in the Education Orders has the same meaning as in the Children (NI) Order 1995.

9. The Children (NI) Order 1995 defines parental responsibility as "all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property." In the context of education, the only rights a parent has, which a person with parental responsibility does not have, under the Education Orders, are the rights in relation to parent Governors and voting to change a school's status to integrated status.

### **Who automatically has parental responsibility?**

10. A mother always has parental responsibility. The only exception to this is when an adoption order or an order freeing a child for adoption is made.

11. Parents who were married at the time of the child's birth or parents who were married at the time of the child's adoption, each retain parental responsibility, regardless of separation or divorce at a later stage.

12. Where a child's mother and father were not married to each other at the time of the child's birth, then only the mother automatically has parental responsibility for the child. If the child's parents subsequently marry, then the father automatically acquires parental responsibility.

### **Who can acquire parental responsibility?**

13. The person most likely to acquire parental responsibility rights is a father who remains unmarried to the child's mother. This may be done by:

- becoming registered as the child's father
- making a Parental Responsibility Agreement with the mother
- applying to the court for a Parental Responsibility Order
- having a Residence Order made in his favour

14. Anyone in whose favour a Residence Order is made will have parental responsibility, while the Order remains in force. Most Residence Orders are made in favour of a relative, such as a grandparent or step parent.

15. A Health and Social Care Trust acquires parental responsibility while an Interim or Final Care or an Emergency Protection Order is in force.

### **Can parental responsibility be shared by more than one or two parties?**

16. More than one person can have parental responsibility for the same child at the same time and neither parent will lose it solely because it is acquired by someone else through a court order.

17. When a Health and Social Care Trust becomes legally involved with a child, while parents do not lose parental responsibility, the Trust is given powers to determine, with certain restrictions, the extent to which another person with parental responsibility may act.

### **What happens if those with parental responsibility disagree?**

18. Any person who has parental responsibility may act alone. Where there is disagreement between those with parental responsibility on any course of action affecting the child, any of the parties involved may apply to the Court for a decision.

## **Implications for Schools**

### **What does this mean for schools?**

19. It means that anyone who has parental responsibility for a pupil or has care of them is entitled to exercise almost all of the rights given to parents in education legislation.

### **Must schools find out about all persons who have parental responsibility for a pupil?**

20. No. Schools are not required to take any special action to find out about all persons who have parental responsibility for their pupils. It is for these persons to inform the school and make appropriate arrangements.

### **What action should a school take if an approach is made about parental responsibility?**

21. Before any action can be taken to accommodate a request to exercise the rights of a person claiming to have parental responsibility, the school will need to:

- confirm that the person has parental responsibility
- establish which rights will be exercised independently or on a shared basis
- make the necessary administrative arrangements

All such requests should be handled sensitively and confidentially.

### **How can parental responsibility be verified?**

22. This may be done by:

- asking for verification from the person making the approach about parental responsibility
- where a parental responsibility agreement has been made with the pupil's mother, asking the father to produce a copy of the agreement for inspection
- where a Parental Responsibility Order has been made, requesting a copy of the Order for inspection

If the school has any concerns about the validity of the documents produced, the EA Education Welfare Service can provide help and assistance.

### **How should the position on the exercise of rights be established?**

23. The exercise of all parental rights may not be appropriate in all cases, as for example in the case of a Health and Social Care Trust exercising parental rights.

24. It is important for the school to establish if these rights are to be exercised independently or on a shared basis.

### **What administrative action should be taken?**

25. When a school has verified where parental responsibility lies and has established the position in respect of education rights, appropriate arrangements should be made to ensure that these rights can be exercised.

## **The Law**

The Children (NI) Order 1995

## **Guidance**

The Children (NI) Order 1995 - An introductory Guide for Schools

DE Circular 1999/17: Parental Responsibility: Guidance to Schools

<https://www.education-ni.gov.uk/publications/circular-199917-parental-responsibility-guidance-schools>