



Guidance

**Curriculum
& Standards**

Work-Related Learning
and the Law

Work-Related Learning and the Law

Guidance for schools and
school-business link practitioners

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Foreword

This document is for use by all those with an interest in work-related learning for Key Stage 4 pupils. It is intended for senior managers and governors in schools and colleges, for teachers responsible for coordinating work-related learning activities, and for schools'/colleges' partners in the local community such as training providers and employers.

Whilst this document explains the legal background to many issues, it is not an authoritative legal interpretation of the provisions of the relevant Acts of Parliament or other regulations: that is exclusively a matter for the Courts. While we have endeavoured to give definitive answers to questions often posed, the answer will often vary according to the circumstances.

If there is one theme we would like to highlight, it is that parents or guardians of pupils on placements should always be informed well in advance of any arrangements being made on their behalf, and asked to give their written consent before a placement.

If you have any queries regarding this document please contact the Key Stage 4 Work-Related Learning Team on 0207 925 5684. Should you have specific queries regarding Government policies, you can contact the Department via email at info@dfes.gsi.gov.uk or by telephone on 0870 000 2288.

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1. Introduction

Background

Since September 2004, there is a statutory requirement for schools to include work-related learning within the curriculum for all young people during Key Stage 4. Work-related learning is defined as:

Planned activity designed to use the context of work to develop knowledge, skills and understanding useful in work, including learning through the experience of work, learning about work and working practices, and learning the skills for work.

It is an element of the National Curriculum which is compulsory, but has no programme of study. Instead QCA has published guidance for schools (QCA, 2003).

This publication has been written to help schools and school-business link practitioners in addressing the legal issues arising from the new statutory requirement. It should also be of interest to partners, including colleges, training providers, LEAs, employers, education-business link organisations (EBLOs) and local Learning and Skills Councils (LLSCs).

The statutory requirement is for schools to make provision for all students at Key Stage 4 to:

- **learn through work**, by providing opportunities for students to learn from direct experiences of work (for example through work experience or part-time jobs, enterprise activities in schools, or learning through vocational contexts in subjects);
- **learn about work**, by providing opportunities for students to develop knowledge and understanding of work and enterprise (through, for example, vocational courses and careers education); and
- **learn for work** by developing skills for enterprise and employability.

This change in the law should lead to a step change in work-related learning in that schools must provide a programme for all students. Work-related learning now stands alongside Citizenship and Careers Education and Guidance as an important, statutory part of the curriculum for all students in Key Stage 4.

The bulk of the book is concerned with the legal implications of the work-related activities that lie at the heart of work-related learning programmes. These are also sometimes referred to school-business link activities. Many of these activities have

become well established in schools over many years. The main activities that are covered in this book are:

- School-college partnerships or school-training provider partnerships;
- Work experience and extended work experience;
- Enterprise and employability experience;
- Work visits;
- Work shadowing and 'Take your son/daughter to work days';
- Residential experience;
- Business mentoring and e-mentoring programmes; and
- Professional development placements.

There are certain features that make these work-related activities distinctive. This is because they are either taught by people from the world of work and/or supported by employers at a place of work. It is these ingredients which mean that schools need to be aware of the particular legal responsibilities arising from work-related activities. Schools have a general duty of care, which clearly extends to all the work-related activities listed. However, there is also a range of legislation which is relevant to the work-related learning programme.

The other feature of work-related learning which has legal implications is that it is an activity involving partnerships. This adds complications, as it means that, in the event of a problem, responsibility for the activity is often divided, and there is scope for a lack of clarity about who is legally responsible. Work-related learning can involve a partnership between the school and:

- further education colleges (FE);
- work-based training providers;
- employers;
- education-business link consortia (EBLOCs); and
- education-business link organisations (EBLOs), such as Trident, Young Enterprise, SETNET or Business Dynamics; or education-business partnerships (EBPs).

Measures to improve safeguards for children in schools, announced by the Secretary of State in January 2006

In light of the Secretary of State's statement to Parliament in January 2006 regarding CRB Disclosures, a letter clarifying the Government's position was sent out to schools and Local Authorities.

It was made clear that there has been no change to the expectations of the DfES of when and in what circumstances a CRB Disclosure should be obtained. It has been made clear in successive guidance that CRB checks are strongly recommended as part of appointment process for new staff working in schools, FE institutions and LEA education services.

The change announced by the Secretary of State is that these existing arrangements are to be compulsory, through Regulations made under sections 35 and 36 of the Education Act 2002 (and s.72 of the School Standards Framework Act (SSFA) 1998) – currently the School Staffing (England) Regulations 2003.

There will continue to be no requirement to obtain a Disclosure on existing staff. Employers will continue to have discretion to seek a Disclosure where they have grounds for concern about the suitability of an existing member of staff, and where the staff member consents. Otherwise, as now, people should only be checked when they seek a new appointment, or have a break in service of more than 3 months, or if they have not previously been eligible for a Disclosure and move to work that involves significantly greater responsibility for children than in their present position.

The guidance in the DfES's Circulars 'Child Protection: Preventing Unsuitable People From Working With Children in the Education Service' (issued May 2002) and 'Criminal Records Bureau: Managing the Demand for Disclosures' (issued December 2002) remains in force.

The DfES also propose to maintain the arrangement whereby Head teachers are able to exercise some discretion in allowing people to start work pending the result of a CRB check, provided that they are confident that other pre-employment checks (e.g. List 99) have been carried out, and they have implemented arrangements to ensure that no risk to children could arise.

A summary of the other measures announced by the Secretary of State are shown below:

CRB Disclosures

- Regulations will be introduced to require mandatory Criminal Records Bureau checks for all newly appointed school employees. This will also require that teaching agencies ensure their teachers have a Criminal Records Bureau check.
- Ofsted will carry out an urgent survey of existing vetting practices in a sample of schools to report to the Secretary of State.

List 99

- Regulations will be introduced to automatically enter onto List 99 anyone who is convicted or cautioned on future for a sexual offence against a child or any of a range of sexual offences against adults.
- A panel of independent experts will be appointed to oversee the whole List 99 process. The panel's role will be to ensure the quality of the process and advise the Secretary of State on any future List 99 cases that need to be decided. They will draw upon the expertise from the police and child protection specialists.
- The expert panel will also review cases determined before 1997. The panel will examine cases which, had the Sex Offenders Register existed, would have resulted in the individual's inclusion on the Register and all cases involving a sexual offence or allegation which resulted in a decision not to include on List 99 or in a restriction or partial bar.
- DfES staff who are part of the vetting process will continue to receive appropriate training, support and advice in child protection issues.

Longer Term Changes

- Legislation will bring together List 99 and the Protection of Children Act List (POCA) into a single register of those barred with working with children.
- That legislation will also give independent experts the final decision on who should be barred. This will have the effect of removing from Ministers the responsibility for taking barring decisions. Decision making will be transferred to a statutory body which will be the holder of the new combined register and will take all decisions about who should be barred. Individuals will retain the right to appeal.

Structure and use of the publication

There are eight chapters, which cover each of the main work-related activities. The chapters all follow the same format. The introduction provides a brief description of the range of practices included under the broad heading. The responsibilities of the school are then described, followed by any responsibilities that lie with other practitioners. A number of scenarios or cases are then briefly described. Some of these are based on things that have happened, and others are hypothetical. Sometimes, a 'worst case scenario' is used - not to cause alarm, but because these examples enable a number of points to be made in discussion. Where a case is based on an actual example, this is stated at the start of the discussion. Each case is discussed highlighting legal implications, responsibility and offering guidance on how the issues and problems could be dealt with or avoided in the first place. The chapter concludes with a checklist of questions to check understanding, together with a list of action points for schools and their partners.

A CD Rom accompanies this guidance which includes:

- A guide to the main laws, regulations and official guidance;
- A resource list containing print and other materials;
- An INSET activity using case studies from the guidance; and
- A quality standard for schools in managing the legal side of work-related learning.

2. School-College Partnerships

Introduction

There is a long tradition of further education colleges offering link courses to school students. Developments in the 14-19 phase have led to a rapid increase in the numbers of Key Stage 4 students attending colleges to follow a range of approved vocational qualifications. The Increased Flexibility Programme for 14-16 Year Olds programme (IFP) and the 14-19 Pathfinders have provided funding to facilitate this growth. Students might attend for half a day, a day, or two days at the college or training provider. The off-site provision can be combined with extended work experience (discussed in chapter 3). Whether with a college or training provider students are being taught in a non-school environment using equipment and learning in workshops. In this chapter the legal implications for schools and their partners of such off-site provision are discussed.

Useful documents

The DfES has produced *Work-Related Learning at Key Stage 4 – Advice for practitioners on the legal background and other areas* (2003). The Association of Colleges has published guidance on school-college partnerships directed primarily at colleges (*Guide for FE Colleges Providing for Young Learners*, Association of Colleges, 2003).

School responsibilities

Duty of care

The school has the prime ‘duty of care’ for their students. Legislation, guidance and judgements resulting from inquests, enquiries, criminal prosecutions and civil actions consistently focus on the school’s position as the body with the primary ‘duty of care’ for their charges. When a school management team decides to offer any activity, on- or off-site, curricular or extra-curricular, it is imperative that they formally consider whether there is any increased risk to the health, safety and welfare of their students, staff and others who may be involved. School-college partnerships are no exception.

In deciding what policy to adopt on supervision, schools should undertake a formal assessment of the risks involved in placing their pupils on off-site activities.

(Work-Related Learning at Key Stage 4, DfES 2003)

However, there are responsibilities beyond supervision. The majority of schools are already demonstrating their concern to make secure arrangements for students on college courses. A list of school responsibilities is shown in Box 2.1.

Box 2.1: School responsibilities in college partnerships

The school is responsible for ensuring that:

- The supervision of activities is adequate, i.e. that the supervision is sufficient and that the supervisors are trained or otherwise proven competent;
- Child protection arrangements are secure, i.e. vetting arrangements for staff and volunteers meet national requirements;
- External qualifications are approved, i.e. on the Section 96 list of the *Learning and Skills Act 2000*;
- Attendance is recorded off-site and regularly transposed to the school records;
- Work-experience placements organised by the college/provider comply with school and local authority policies;
- The school has confidence in the health, safety and welfare arrangements for the students while at the college or training provider;
- The insurance cover of the provider extends to the school students;
- Disclosure of information to the provider is relevant and negotiated with students and parents;
- Data protection arrangements are secure;
- Travel and transport arrangements, including funding, are appropriate and agreed;
- Arrangements for supervision during breaks and lunchtimes have been negotiated;
- Behaviour-management policies and disciplinary procedures have been agreed;
- Staff support in classrooms has been organised, where necessary;
- Teachers, support staff or learning mentors support the students with regular monitoring and progress visits; and
- Arrangements are in place for feedback and reporting to the school, parents and students.

Supervision

It is an understandable assumption of parents that their son or daughter will be educated on a school site, which will be regulated to a high standard of health and safety. Therefore, it is vitally important that parents or guardians should be informed of the nature and parameters of any off-site arrangements and their prior consent obtained. The onus is on schools to obtain this prior consent. In all such circumstances, if there are to be any instances where pupils are unsupervised (or where the level of supervision is lower than that usually provided by the school), this fact should be pointed out to the parents and their prior consent obtained. In principle, there should always be provision, notwithstanding that it may be 'remote supervision', for example, where pupils appear to be on their own, but know where their supervisor is and how to contact them. It must be borne in mind that parents will expect schools to provide adequate supervision during school hours and this will be a factor in determining whether the school is fulfilling its legal duty of care.

Colleges and training providers must provide schools with adequate details of provision to enable the school to communicate the scope of activities to parents in order to obtain written consent for them to take part. Providers also have a responsibility to secure consent if, for example, a student's photograph is to be used on any external publicity in printed or electronic media. These issues can often be included in one document to be signed by the student and the parents or carers.

Parental permission should first be sent to the school. However, so that all parties supporting the student know the limits, the arrangements should be communicated, as simply as possible, to all parties. A common flaw in such arrangements is an overload of communication documents and partners being given different messages about the arrangements. However, gaining parental permission does not negate any of the school's or the provider's responsibilities in law.

Useful documents

Important Health and Safety Executive documents covering risk assessment and health and safety management for school work experience include: *Management of Health and Safety at Work Regulations 1999* and *Managing Health and Safety on Work Experience HSG199, 2000*. Reference should also be made to Learning and Skills Council circulars on health and safety for programmes which they fund. Health and safety responsibilities of schools and their partners are clearly set out on the DfES Teachernet website (www.teachernet.gov.uk/management/healthandsafety/)

The most common concern is whether pupils of compulsory school age have to be supervised *at all times* when on college or training provider's premises. Risk assessing the costs and consequences of various levels of supervision will depend on, among other things, the factors shown in Box 2.2. It is important when making decisions about supervision to record the thinking behind these decisions as this can help in showing 'due diligence'.

Box 2.2: Factors affecting risk assessment for off-site provision

- The maturity and experience of the student;
- Their likely behaviour;
- Their age at the beginning of the experience (some may be over 16, for example);
- The advice and wishes of their parent or guardian;
- Whether there are opportunities for them to be more independent, responsible for their own actions and timekeeping;
- Their self-esteem in situations where an important ‘motivating factor’ may be that they are treated more like a young trainee, or FE student, than a school student;
- The likelihood of unsuitable adult role-models having regular, unsupervised access to the student;
- The potential risks of the activity; and
- The environment of the placement.

These and other factors should be taken into account when the school is consulting with the college to negotiate the level of supervision required. Students should be supervised by an ‘*adult approved to work with children and young persons*’ – in other words, a lecturer or trainer who has been checked by the Criminal Records Bureau (CRB). Advice from the Association of Colleges (2003) recommends the following as good practice:

- FE College staff teaching the 14-16 cohorts will require satisfactory enhanced CRB checks prior to starting the course;
- Where young learners are in-filled in programmes with students over 18 they should be supervised by an approved adult – i.e. one who has received a satisfactory enhanced CRB check, and who must ensure that other adults do not have ‘regular unsupervised access’ to the child;
- Support staff such as technicians and instructors, who have not been CRB checked, should not have regular, unsupervised access to young learners;
- FE Colleges should obtain an Enhanced CRB check in respect of all staff whom they select for appointment in paid or voluntary work, or training which involves regularly caring for, training, supervising, or being in sole charge of children under 18 years of age or vulnerable adults; and

- FE Colleges should obtain a Standard Disclosure CRB check in respect of new staff whom they select for appointment in paid or voluntary work, or training, including within the Student Union, which involves regular contact with children under 18.

(*Guide for FE Colleges Providing for Young Learners*, Association of Colleges 2003)

Useful documents

The Protection of Children Act 1999 is the most important piece of legislation aimed at protecting children. The role of schools and their partners in child protection is set out in the DfES guidance, *Safeguarding Children in Education* (2004).

Risk assessments need to be modified to take account of the lack of experience and maturity level of this younger group. Supervision risk-assessment also needs to look at the numbers involved, taking into account any guidance or good practice recommendations associated with the activity, the age and maturity of the students, their behaviour and the mix of the group.

However, supervision levels can be a problem and some situations may need the school to provide support staff who know the children and their behaviour patterns. In some cases this has worked well, with school staff interested and keen to become involved in learning new skills to help their students. Schools will need to consider how the *Workforce Agreement (National Agreement on Raising Standards and Tackling Workload 2003)* affects staff accompanying students to colleges.

Where levels of funding and income from the school contribution have permitted, some college and training providers have appointed learning support assistants, often trained youth workers. Their role is often to:

- supervise students during breaks and lunch times;
- manage school liaison, registers and reporting;
- manage classroom behaviour; and
- provide pastoral support for students and additional support for vocational lecturers.

The quality of the supervision is very important. Where there are clear guidelines on activity ratios, these should not be exceeded. These include the size of teaching areas, and the regulations are different for schools, FE colleges and training providers. Most heads of department should have a working knowledge of how they apply to their facilities. In some cases, supervision levels will have to be adapted to take account of the emotional and behavioural and other special needs of the students. Many teachers in FE and training provision need support and training to adapt their teaching style to the 14-16 age group. Because of this, many colleges have devised behaviour management policies.

Non-contact time

Another supervision concern is whether the students should be supervised during 'non-contact time', for example, between lectures/teaching sessions and lunch breaks. The arrangements for non-contact time need to be risk assessed. Case law has established the need for supervision over the lunch period at schools and accords with standard practice. However, some schools allow older students to leave the school, if parents have consented. Any movement away from this standard of supervision, when students are studying off-site, would depend on the result of a risk assessment for a particular student, or a generic risk assessment for a number of students who fall into the same category. For example, arrangements might be made for a 'vulnerable' student to have lunch provided near a 'staff area' and be asked to remain on-site.

There then arises the question of whose responsibility are pupils on college placements or work premises who are off-site at lunchtime?

Schools are responsible for assessing the risks and taking appropriate action in agreement with their partners. If the school can show that it has taken reasonable steps to assess the risks and imposed appropriate measures to counter them (with suitable arrangements reached with partners) then it can argue that it has fulfilled its duty of care.

(Work-Related Learning at Key Stage 4, DfES 2003)

In reaching a judgement, the school will want to take full account of a range of factors, including:

- What is the age and maturity of the pupil(s) in question?
- What are the patterns of lunchtime arrangements for pupils of this age group in the provider's area? For example, is it a relatively safe area where pupils from other schools, of a similar age, wander at lunchtime, or is it an area with a high incidence of street crime?
- Are pupils likely to go off-site with peers for safety?
- Do the parents/guardians agree that their children are mature and responsible enough to be allowed this degree of freedom?

However, there is no evidence to suggest that incidents are more likely to happen to students allowed off-site by colleges and training providers, than those let off-site from schools.

Travel safety

There then follows the question of who is responsible for the safety and welfare of pupils en route to or from the college or the training provider? If the school/LEA arrange home-to-school transport, then it is likely that they will be deemed responsible. In certain situations, the responsibility may fall to the parent or guardian. However, the route and travel options to and from the provider should be made clear to pupils and parents. Any significant increase in risk to the pupil's health and safety (over and above

their normal journey to school) should be highlighted and parents given the option to offer, or suggest, any safer alternatives.

Differences between school and college 'days'

One college ran a programme from 11am-1pm and 2-4pm and this raised the question of whose responsibility the pupils were between 9am and 11am? Some schools run alternative start and finish times to the day, sometimes on a continental day and increasingly on a shift basis to take full advantage of expensive specialist laboratories and ICT centres. So, irrespective of the context, it is important to ensure that parents and students are aware of the difference between the provider's 'shifts' and those of the school. Schools may want to think about the following questions:

- Do these pose any significant increase in risk (for example, travel in the dark winter months)?
- Do all parties agree that all reasonable steps have been taken to reduce or eliminate any risk?
- Have students and parents had the opportunity to suggest a safer viable alternative?

The college or provider has a responsibility for the health and safety of anyone on their premises, so they will be responsible for a student on the premises between 9 and 11am, even if they are not in a lecture or involved in an activity. Care will need to be taken to risk assess and negotiate with partners what might be considered acceptable, unsupervised time on the premises, and give clear information to all parties on the timings and associated rules.

There are no absolute prescriptions about supervision ratios in the playground, in the school in general, in college courses or on school visits.

Rather, it is down to risk-assessment and risk-management, making use of the school's professional knowledge of its pupils and the conditions in school, in the playground or on a visit. However, the DfES learner-accident database indicates that a major factor in the case of accidents to learners is poor or inadequate supervision. Schools which place pupils with other education establishments for placements or with employers for work experience should check that the provider has assessed the risks and taken any necessary action (for example, assessing the risks of placing a pupil with an age group to which they were unused). It would be for the courts to decide liability in the event of an accident, but proof of efficient risk-management by the placing school would be valuable as a piece of evidence.

(Work-Related Learning at Key Stage 4, DfES, 2003)

Disclosure and data protection

The disclosure of information collected during the work-related learning programme is now covered by the *Data Protection Act 1998*. Schools will want to make available to colleges and providers relevant information about students that will help them make informed judgements about educational provision, supervision, health and safety, and behaviour management. Schools may be vulnerable to criticism that they did not facilitate the transfer of information that might have helped reduce or eliminate the likelihood of an accident or serious incident. Many schools are worried that they will infringe data protection and equal-opportunities legislation and that non-disclosure is good practice.

If schools obtain the consent of the pupil (or, in some circumstances, the parent) then it will be legitimate for schools to release certain data to colleges about that pupil's attendance, behaviour, prior attainment, and so on. If consent is not obtained, then there may be circumstances in which data should not be released. In any event, before such information can be disclosed, schools have to inform parents and pupils that the school will be sharing personal data with the college for the purpose of carrying out educational functions. The school should explain the intentions behind the disclosure and the purposes for which the data is to be used, including any non-obvious purposes.

(Work-Related Learning at Key Stage 4, DfES, 2003)

There will be circumstances where information will be deemed 'sensitive personal data' under the *Data Protection Act 1998* (The Information Commissioner oversees the implementation of the Act – see the website www.informationcommissioner.gov.uk). This may, for example, relate to SEN or behaviour-management issues. The school should obtain explicit consent for disclosure from the student or, in some circumstances, the parents/guardians. Schools may find it more efficient to seek explicit consent from all students and parents for disclosure as a matter of course. They may wish to combine this request with other permissions when writing to parents about the work-related learning placements generally.

The pupils and, in some circumstances, the parents, should be informed that the school will be sharing the pupil's personal data with the college for the purpose of carrying out educational functions.

(Work-Related Learning at Key Stage 4, DfES, 2003)

There are certain circumstances where disclosure without consent is appropriate, for example, where there are child-protection concerns under the *Children Act 1989*. Education staff have a professional responsibility to share relevant information about the protection of children with the designated statutory agencies when a child is experiencing child welfare concerns. When in doubt about disclosure without consent,

agencies such as the Education Welfare Service, or local Social Services should be consulted.

It is most likely that the parents will be informed of work-related learning placements and at the same time be asked to give their consent to a range of other issues (for example, for their children to be unsupervised during lunch breaks). It may be appropriate for schools, at the same time, to request that parents give their consent to information about the student being disclosed to the relevant college. It would be appropriate for the schools to inform them of the 'fair processing' information at the same time. However, the student should also be involved in giving their consent.

As the pupil is the 'data subject' under the Data Protection Act, provided that he or she has sufficient age and maturity to understand what it means to exercise his or her rights under the DPA, it is the pupil that should ultimately consent to the disclosure.

(Work-Related Learning at Key Stage 4, DfES, 2003)

Responsibilities of parents

Parents or guardians have no duties under health and safety law except where they provide work-related experiences for members of their own family. However, the Health and Safety Executive advises that:

Parents can help by providing any relevant information about their child's medical or behavioural conditions. They might also usefully inform education establishments and organisers of any actual or potential health and safety problems in the placement which they may tell them about.

(Managing Health and Safety on Work Experience, HSE, 2000)

However, there is some legal concern that in a case where a parent withholds information that may have prevented an accident to their child, another student, an employee or a member of the public, contributory negligence could be claimed.

Approved qualifications

Under the provisions of sections 96, 98, 100 and 101 of the *Learning and Skills Act 2000*, schools, institutions and employers in England may offer to those under the age of 19 a course leading to an external qualification (which is funded either by an LEA or Learning and Skills Council) only if the qualification is approved. An external qualification is defined as one which is awarded or authenticated by an 'outside person' i.e. a person other than the school or institution or employer or a member of their staff. Section 96 regulates the external qualifications that have been approved for use within mainstream schools (for the list of approved qualifications see www.dfes.gov.uk/section96 which is regularly updated). Where these courses are for Key Stage 4 students at a college, training provider, or with an employer, it is the school's responsibility to ensure that those qualifications are approved. Where the

qualification does not meet the conditions for general approval, or is not on the DfES Section 96 list, it should not be started.

However, if a course leads to a more informal certificate or is not certified in any way (for example, a motor vehicle course that does not lead to any motor vehicle specific qualification), then it can go ahead.

There are some courses that are offered that do not lead to external qualifications but lead to a more informal certificate such as a consortium or college certificate or which are not certificated in any way. While there is no barrier to these courses being offered, schools, parents and pupils must make a considered judgement as to whether such courses will be in the long-term interests of the pupil involved.

(Work-Related Learning at Key Stage 4, DfES, 2003)

In the case of an EBLO 'brokering' arrangements, it would seem sensible to make general connections with providers and leave service level agreements between the provider and the school. Head teachers are responsible for approving the 'curriculum' decisions, and the EBLO should remind schools that they must be happy that there is 'compliance' in any arrangement they make with a provider. Heads should check that any external qualification offered in their school or institution is approved or meets the conditions for general approval. The school and college need to consider this list together, in order to ensure that pre-16 students are undertaking courses of study leading to qualifications which:

- are approved for use at Key Stage 4;
- do not contravene health and safety requirements for young people; and
- are included in the school's and FE institution's insurance cover.

The LEA and governing body are responsible for overseeing this in maintained schools. LEAs and the LSC are responsible for overseeing this in all other cases where they respectively fund courses leading to external qualifications. On the Section 96 website 'general approval' has been given:

For those up to and including Key Stage 4, an external qualification, regardless of subject or listing, if the associated course of study is provided wholly outside school timetabled hours.

(www.dfes.gov.uk/section96)

Attendance and reporting procedures

There is no specific legislation covering a provider's duty to contact the school if a student fails to attend, hence the need for a protocol to ensure that systems are coherent and robust. However, providers do have a common law duty of care to play their part in ensuring the health, safety and welfare of the student and for this reason they should work in partnership with the school to devise a simple, but effective system

to track and report attendance. It is important for the school to negotiate with the provider a time in each day when it could be reasonably considered the student is not just late, but potentially absent if nothing has been heard. Providers could reasonably be expected to report such absence back to the school. There is a clear relationship between truancy and the lack of progress of some students.

Some providers make a check at the end of day, but other schemes register at both ends of the day and operate effective 'negative reporting' systems. This might involve reporting the 'missing' students back to the school, if they fail to arrive by the time the course has been running for 60 minutes. Now that many classrooms have internet connections, it can take just a few minutes of the time of a support assistant to inform the school via email. School support staff can view the absences and contact parents and/or the student.

If there is confidence that the placements are being regularly attended and that the provider understands the importance of informing both the home and school of any absence, then a check once a week might seem reasonable. In some schemes the school assumes responsibility for contact with the home. The setting up of a weekly 'return' from the provider, that could be emailed, posted or phoned in to someone who can easily transcribe this to the school register, is also sensible. If a student misses attendance at school through illness, the school is not responsible for the welfare of that student while they are ill at home. There does not appear to be any difference in this 'illness at home' responsibility if the student is placed with a provider. However, the provider should notify the school of the student's absence.

The school should explain to the college the legal requirement to keep a check on attendance of pupils of compulsory school age and negotiate a procedure for reporting absence with the school prior to commencement of any placements. Generally, it is most practical if the school's normal method of reporting absence applies. A contact name at the school should be provided to the college.

(Work-Related Learning at Key Stage 4, DfES, 2003)

Although some students following work-related programmes are likely, at least for some of the time, to be out of school on other premises, the legal requirement to keep a check on their attendance remains. It is vital to set up clear procedures for reporting absences and to ensure that the college/work placement understands the legal position with pupils under compulsory school age. Generally, it is most practical for the school's normal method of reporting absence to operate. Students who are engaged in supervised educational activities, including work experience, do not need to be marked as authorised absent in the school's attendance register. The registration band 'approved educational activity' should be used. This is the equivalent of 'present' for performance table purposes. The same protocol for authorised absence from the school, for example a dental appointment, should be applied to the FE College or training provider.

Clear procedures and contact names are important so that:

- *college/work placement staff are informed of any reported absence;*
- *pupils feel secure and opportunities for ‘taking advantage’ are minimised;*
and
- *legal responsibilities are met.*

(Work-Related Learning at Key Stage 4, DfES, 2003)

The school should also inform the college/employer immediately a student’s absence is notified. Conversely, where the college/work placement is notified of an absence, arrangements should be made to notify the school so that the lack of attendance can be correctly recorded.

Partnership agreements and contracts

In any work-related learning programme, much depends on roles identified in any service level or partnership agreements between schools, providers and employers. However, the duty of care owed by the school to its students cannot be removed by a service level agreement. The school, therefore, will retain some responsibility – although other additional responsibilities will be placed on third parties either through legislation, the common law, or guidance.

Partnership agreements or contracts normally set out contributions to an agreed joint response to improve the learning environment. Partnership agreements are more often favoured now by schools, colleges, providers, LEAs and EBLOs as they remind all parties of their responsibilities in one document. This reduces the risk of one partner defaulting and increases the likelihood of the agreement working to protect young people.

The use of the generic term ‘provider’ means that one agreement can be modelled to apply to a number of alternative programmes involving colleges, training providers and employers. Agreements should be in plain English and a balance of clarity and flexibility can have a significant impact on the success of the arrangements. In some cases these partnership agreements can be extensive, but that may mean they provide a useful manual of procedures to reduce misunderstandings between the school and its partners.

Staffing issues

Qualified Teacher Status (QTS) is a requirement for all who teach in maintained schools. FE lecturers may be involved in teaching Key Stage 4 students either at college or in school. However, they generally do not have qualified teacher status but are subject to separate qualification requirements.

People who instruct students as part of a vocational programme will often be classified as ‘instructors’ for purposes of specified work. There is no reason why an FE lecturer should not work in a school with 14-16 year olds provided that the headteacher is

satisfied that the lecturer is a 'fit and proper person' and has been made subject to a CRB check.

If the lecturer is employed by the FE college, pay remains that to which the lecturer is normally entitled. If employed by the school, then the normal rules concerning pay in teaching would apply. Their options would be to work as an instructor, to do the Graduate Training Programme (GTP) and obtain QTS (schools) or to do a flexible Post Graduate Certificate in Education (PGCE).

Provider responsibilities

The primary duty of care in organising work-related learning remains with the school. However, colleges and other providers also have responsibilities in the range of health, safety and welfare legislation. Some of the providers' responsibilities have been discussed above, but Box 2.3 provides a summary checklist.

Box 2.3: Providers' responsibilities for off-site provision

Responsibilities include:

1. The **health, safety and welfare** of all students on their premises or engaged in activities organised by them. Ensuring attention is paid to any significant increase in risk to the health, safety and welfare of their staff, or their existing students or trainees resulting from involvement in the programme. Re-visiting, in partnership with the school, their activity and facility risk-assessments, taking into account the age, potential immaturity and special needs of the Key Stage 4 students. Providing induction sessions for both students and staff to cover health, safety and welfare issues.
2. Compliance with **child protection** legislation which applies to all young persons under 18, i.e. safe supervision levels and, where appropriate, use of the two levels of CRB checking of staff with identified responsibilities for supervising young people. Ensuring that no person who is unsuitable for working with young people has access to them.
3. Checking that **insurers** are aware of the implications of their involvement in with 14-16 year olds.
4. Identifying workable attendance, reporting, monitoring and emergency **procedures** in partnership with the school.
5. Supporting their staff in adjusting to teaching key stage 4 students by organising training and the formation of workable and effective policies.
6. Compliance with legislation and good practice on **data protection**.

Case discussion

Case 1 – The electrician

A qualified electrician is under contract to an FE college to deliver a half-day-a-week module on an electrical installation course where eight students are under-18 and five Y10 pupils are in-filled from local secondary schools. There are no ‘approved adults’ from the FE college involved and the electrical installation facility is ‘detached’ from the main construction school.

Discussion

This situation is more likely to apply in a training provider than a college situation. However, the situation can be easily remedied if the electrician agrees to the required CRB check and if there is an approved adult working in the vicinity until approval is secured. Many vocational courses and programmes with training providers involve some very specialist input, for example, a chef with expertise in chocolate technology. As this input may involve say, one day in a two-year course, then a CRB check would be deemed inappropriate and the presence of an approved adult, who knows the group, would ensure compliance and good practice.

Case 2 – Travel to a training provider

It came to the attention of one school that Y11 students were using ‘Peds’, the street name for 50cc output-regulated motorcycles and scooters, to get to their training provider. The school has raised this as an issue with the provider.

Discussion

As Y11 progresses more students may be venturing on to ‘Peds’, i.e. 50cc vehicles. However, schools should think carefully before applying different rules and safety precautions than those already in place for travel to school. Nevertheless, particularly in areas with poor transport, it might be considered that it is safer for the student to get home quickly and safely on a Ped, rather than waiting for unreliable or infrequent buses or trains. Initial reluctance to allow them to use their own transport might be sensibly reversed on the balance of risk.

Case 3 – Bullying

Oginda is a very shy Nigerian boy in Y10 who has been in the country for three years. He was attending an FE college that has a very good reputation and results and is favoured by the Asian community. The school has only just become aware that he stopped attending the Friday taster programme six weeks ago. His tutor at school has spoken to his mother who says he refuses to go back to the college because he had his mobile phone stolen by a gang of older boys who keep asking him to give them money. When he refused to pay up, they stopped him from getting on his usual bus and he had to walk home by a different route.

Discussion

There is now much greater awareness of bullying than in the past. However, examples of bullying often regrettably occur. There is a question of whose responsibility it is to ensure that students on placements are not bullied.

While on a placement at a college/workplace a school pupil is in the care of the college/provider and so they have a duty of care towards that pupil. Furthermore, headteachers are under a legal duty, under Section 61 of the School Standards and Framework Act 1998, to draw up measures to prevent all forms of bullying among their pupils.

(Work-Related Learning at Key Stage 4, DfES, 2003)

The school, college and other providers should agree a policy and procedures for dealing with bullying before placements begin, and establish named individuals to take responsibility and act as contacts in case of emergency. Students and parents should be informed of these arrangements before placements begin. Schools and colleges should obtain a copy of the DfES anti-bullying pack, *Bullying: Don't Suffer in Silence* (quote ref: DfES/0064/2000). There is also a website (www.dfes.gov.uk/bullying) which is for teachers, students and parents and a video that can be downloaded (www.dfes.gov.uk/bullying/teachersindex.shtml).

An agreed policy should include:

- A definition of bullying, including racist, sexist and homophobic bullying;
- Aims and objectives;
- Procedures to follow – who to tell, how to record bullying, sanctions; and
- Intervention techniques, curriculum support, training policy.

The anti-bullying policy should dovetail with the behaviour policies agreed with colleges and providers. Distinguishable identity badges for Key Stage 4 students on college

premises can be a useful way of helping staff and fellow students to 'look out' for the younger age group.

Schools are not directly responsible for bullying off their premises. However, they do retain some responsibility to attempt to reduce or eliminate the likelihood of bullying when on activities the school has organised. A Court judgment ruled that the head's duty of care to prevent bullying generally only applied within the precincts of a school, although, exceptionally, failure to take disciplinary steps to combat harmful behaviour outside the school might breach the school's common law duty of care (*Leah Bradford-Smart v West Sussex County Council*). A good deal of bullying takes place outside the school gates, and on journeys to and from school. The bullying may be by pupils of the school or pupils of other schools or people not at school at all.

Check your understanding

Reflection

- To what extent does your policy and practice for students on work-related learning comply with the law and good practice guidance?
- Has a risk assessment been conducted by a competent person?
- What supervision arrangements do you make for students attending the college or providers?
- Who is responsible for reporting on attendance of students and following up absences?
- What are the main risks and control measures associated with extended work-related learning programmes?

Action

- Have you recently reviewed your partnership arrangements with your college and training provider partners?
- What steps can you take to improve the monitoring of students attending off-site programmes?
- What can you do to make sure students are adequately supervised and the school fulfils its duty of care?

3. Work experience

Introduction

Work experience has been defined as:

A placement on employer's premises in which a pupil carries out a particular task or duty, more or less as would an employee, but with an emphasis on the learning aspects of the experience.

(Work Experience: a guide for secondary schools, DfES 2002)

It is also the work-related activity that has the most legal implications, as students are undertaking work tasks in a real work environment, as opposed to observing work during shadowing or a visit. The main DfES guidance for schools and their partners can be found in the two publications:

- *Work experience: a guide for secondary schools (2002); and*
- *Work experience: a guide for employers (2002).*

These publications are regularly updated to reflect changes in the law.

School-based work experience was originally enabled by the *Education (Work Experience) Act 1973* for students in their last year of compulsory schooling. This was amended by Section 560 of the *Education Act 1996* to allow work experience at any time during the last two years of compulsory schooling, i.e. from the start of Y10 (see case study 2 for discussion of implications). The 1996 Act also:

- prohibited work experience where the work itself was subject to a statutory age limit (e.g. under 17); and
- required LEAs to approve work experience in maintained schools.

Extended work experience was quite common before the introduction of the National Curriculum following the *Education Reform Act 1988*. Section 363 of the *Education Act 1996* (now repealed and replaced by Section 90 of the *Education Act 2002*) allowed certain aspects of the National Curriculum to be disapplied so that students could follow programmes of extended work-related learning. Thus increasing numbers of students were able to undertake periods of extended work-related learning. This often took the form of extended work experience, when students attend their placement on a weekly basis generally for between half a day and two days. It is now recognised that too much time spent on unaccredited work placements can seriously interfere with other aspects of students' learning.

Increased flexibility and the broadening of the curriculum to include a wider range of vocational courses at Key Stage 4 including, for example, GCSEs in vocational subjects and Young Apprenticeships, means more students attending work placements on a regular basis over a period of time. Extended work placements are no longer confined to programmes to re-motivate disengaged students.

School Responsibilities

Health and Safety

The main responsibility for controlling risks to health and safety of students rests with the employer. However, there are responsibilities that schools have under health and safety regulations, in particular the role of placement vetting: visiting and re-visiting by a person with sufficient training to carry out the required tasks competently. HSE also encourages schools to enter into formal written agreements with employers. Schools have a responsibility to ensure that students are prepared and briefed generally on health and safety at work and understand how to identify hazards and the sort of control measures that can be put in place to reduce the risk of injury or accident. Accidents occurring on work experience and the procedures that must be followed are discussed below.

The majority of schools are now subscribing to a coordinated local programme to provide placements or to health and safety check the school's or students' 'own-find' placements. Central work experience organisers, generally the Education Business Partnership or Trident, are obliged to follow health and safety guidance set out in a contract with the Learning and Skills Council. Schools should be aware that they a responsibility under this contract to promote 'safe learners' through the quality of student preparation allowing students to gain: an understanding of health and safety, including the identification and control of risk; and developing a set of safe behaviours in the workplace. Staff assessing employers and their locations for health and safety need to be competent. To the national competency standard Health and Safety for People at Work Unit D: Review Health and Safety Procedures in the Workplace (ENTO) can be used as a benchmark. Further information can be found at www.safelearner.info.

The LSC standards reflect the main health and safety legal requirements that exist to protect persons at work and and others affected by work and should be no more than employers do already. The LSC hopes that by setting clear standards, small- and medium-sized companies in particular will better understand their obligations. Funded organisations should undertake assessments only once every one, two or three years, depending on the risk (high, medium and low). This is to avoid funded organisations having to duplicate assessments. There are nine core standards. The tenth standard is specific to the learner and will need to be agreed for each learner because of the individual needs and the duty of care owed to them.

Useful documents

The most important piece of legislation dealing with health and safety issues relevant to school work experience is the *Management of Health and Safety at Work Regulations 1999*. Detailed advice for employers and schools is set out in two HSE publications: *Young People at Work – A Guide for Employers* (2000) and *Managing Health and Safety on Work Experience – A Guide for Organisers – HSG199* (2000). (Currently under revision).

Employers are responsible for applying health and safety legislation and guidance to the placement and complying in particular with the young persons' requirements of the *Managing of Health and Safety at Work Regulations 1999*. Once the work placement has started, the employer is responsible for the health, safety and welfare of the student. This will include ensuring the student does not work unreasonable or unlawful hours or shift patterns. The *Working Time Regulations 1998* introduced enhanced rights to rest breaks and limited working hours. Work experience co-ordinators and employers should be aware of how these regulations can affect students on particular placements such as in the leisure industry.

Where a young worker's daily working time is more than four and a half hours, he is entitled to a rest break of at least 30 minutes, which shall be consecutive if possible, and he is entitled to spend it away from his workstation if he has one.

Working Time Regulations 1998

Insurance

The principal risks which may arise as a result of student visits to workplaces are:

- a. injury to the students themselves;
- b. injury to others on the premises (employees, visitors, customers, etc);
- c. injury to others who are not on the premises (including customers and members of the general public);
- d. damage to, or loss of, employers' property; and
- e. damage to, or loss of, other property (e.g. the student's, or a customer's property).

Most employers will carry insurance policies that cover most risks arising from student visits, provided that the insurers know in advance the type of activity planned. This is a matter of conforming to the basic principle of disclosing to insurers material facts that may affect the terms of the policy.

The Association of British Insurers (ABI), the British Insurance and Investment Brokers Association and Lloyd's of London have agreed that, as a matter of convention, students on work experience placements should be treated as employees for the purposes of insurance against personal injury (that is, they will be covered by the

Employers' Liability policy). Such placements must conform with the requirements of the Education Act 1996 and the insurer must always be notified.

Student injury arising from other forms of attachment would normally be covered – like all injuries to visitors – by the employer's Public Liability policy. Any injuries caused to employees by students should normally be covered by the Employers' Liability policy.

Any injuries caused to employees or students, provided they arise out of activities undertaken in the employer's name, should normally be covered by the employer's Public Liability policy or Employers' Liability policy.

Any damage to the organisation's property should normally be covered by the employer's material damage policy. Damage to anyone else's property on the premises should normally be covered by the employer's Public Liability policy.

Notification of Risk

As a matter of basic principle, employers should notify their insurer(s) of the sorts of activities which students will undertake, and should make sure they obtain written confirmation that the risk has been accepted.

In the case of more, or less, frequent visits and also short visits by groups of students to the workplace, it should be enough to notify the insurer(s) once and in broad terms. Cover should then become a formality, and will probably not involve any adjustment to premiums (or, at most, a minimal one).

Placements Lasting Longer Than Two Weeks

There has been some concern that employers' insurance policies may not cover students on longer work placements. The agreement referred to above was based on the assumption that placements will last for about two weeks. However, in the light of new measures to motivate disaffected young people through extended work experience, the DfES contacted the ABI to discuss the insurance implications of longer placements. The ABI have confirmed that there should be no problem with extended work experience placements, as long as the insurer has been notified of the placement details, including the duration.

Longer attachments, including those associated with National Vocational Qualifications (NVQ) or General National Vocational Qualifications (GNVQ) will inevitably call for more detailed information. Even if the activity is likely to be recurring, it should be enough to inform the insurer on one occasion. There may be some adjustment to premiums, but it is still likely to be very small in relation to the overall size of the premium.

Checks on Employers' Insurance

Work experience organisers are not expected to check the fine print of employers' insurance policies, but they should check, in broad terms, that relevant cover is in place.

The *Work Experience: a guide for employers* (DfES, 2002) guidance provides a pro-forma checklist to send to employers for them to sign and return. The checklist does help focus employers' attention on their insurance cover and reminds them to confirm that their insurers have accepted the risks declared, as applicable to work experience students. In spite of risks being covered by employers' and public liability insurance, schools may wish to consider taking out personal accident insurance.

Equal Opportunities

The main equal-opportunities legislation should be applied to students on work experience. The 1987 case in Croydon was the test case for infringements of the Race Relations Act 1976, where an employer sought to dissuade a co-ordinator from sending a black pupil to the company. This example of direct discrimination highlighted three main lessons (CRE, 1991):

- Employers had ample opportunity to exert pressure on co-ordinators to discriminate;
- Prompt teacher action using the school's equal-opportunities policy led to the issue coming to light; and
- Although the company had an equal-opportunities policy, it was not monitored and there was no staff training in its implications or implementation.

Teachers and students should also be aware of the implications of the *Sex Discrimination Act 1975*. There have been examples of young women being sexually harassed on work experience, and indirect discrimination through sex stereotyping about the kinds of work appropriate to males and females.

Data and Child Protection

Coordinators need to ensure that any personal data held on students or employers complies with the principles of the *Data Protection Act 1998*. Such data might be collected by teachers during visits to students while on placements or through evaluation forms completed by students after the placement. Data on students is often collected through employer assessment forms when the employer may be invited to comment on the employability and attitudes of the student.

School coordinators should be aware of various pieces of child-protection legislation. Generally as the adults on work experience will not have regular, unsupervised access to the young people at work there is no need for CRB checking of work-experience supervisors. Where they do have regular, unsupervised access to the young people, for example an electrician taking a student from site to site, the situation should be risk assessed. In Circular 337, DfES currently advises that a CRB check should be carried out where supervision of a young person forms part of an employee's role. For example, a construction company may appoint or delegate an electrician specifically to train a group of young people off-the-job in a dedicated workshop.

Safeguarding Children

Section 175 of the Education Act came into force in June 2004. School governing bodies, local education authorities and further education institutions have a duty to make arrangements to ensure that their functions are carried out with a view to safeguarding and promoting the welfare of children. In addition, those bodies must have regard to any guidance issued by the Secretary of State in drawing up those arrangements. LEAs'/Schools'/and further education institutions' arrangements for long-term extended work placements must include arrangements for CRB checks, where those are thought to be appropriate in line with the *Safeguarding Children in Education* and this or any other supplementary guidance, issued by the DfES.

For further information on: child protection guidance, Section 175 and general child protection information visit www.teachernet.gov.uk/childprotection.

Useful documents

The relevant documents on child protection are: *Child Protection: Preventing Unsuitable People from Working with Children and Young Persons in the Education Service*, Circular 227/2002, and *Education (Prohibition from Teaching or Working with Children) Regulations 2003*. Further guidance was published by DfES in 2004, *Safeguarding Children in Education* ref DfES/0027/2004 which can be accessed by the website above. Additional guidance on work experience supplementary to *Safeguarding Children in Education* is also available.

A further issue for work-experience organisers is whether or not students on childcare placements need to be checked. Circular 337 states that such students need not be checked, but young people working with children as part of a training course, e.g. student teachers or nursery nurses would need to be CRB checked. This may mean that where, for example, students are undertaking a Health and Social Care course (where the course forms a substantial part of their Key Stage 4 curriculum) the course organiser may decide they should be CRB checked before they undertake a related, work-experience placement. A positive CRB check may also enhance their progression and employment prospects. DfES guidance makes clear that this does not apply to GCSE in Health and Social Care.

Extended work experience

It is recommended that schools apply a set of general principles when making arrangements for students to go on extended work experience (see Box 3.1). These arrangements take into account the needs and behaviour of students when making decisions on matching and support required. They are based on guidance issued to schools when the regulations on disapplication from the National Curriculum were first introduced.

Box 3.1: A checklist for organisers of extended work experience

1. Summarise students' needs and significant factors like their attendance, attitudes, abilities, achievements, special needs, behaviour etc. This allows the employer to modify their risk assessments in the light of information provided.
2. Arrange a meeting with a personal adviser from the *Connexions* Service in order to determine aspirations, potential progression routes and accreditation requirements.
3. Arrange a consultation with student(s) and parent/carer(s) to outline the aims and objectives of the scheme. Explain the costs and consequences of the programme, in those cases where students will not gain quite so many GCSEs. Obtain parental and student agreement to participate in the programme, either through an initial consent form or an agreement.
4. Match the student to a placement, which has been approved on health and safety and general suitability grounds from a local work experience database. Alternatively arrange for a new placement to be vetted by a competent person.
5. Arrange a work experience preparation programme to enable the student to be able to gain maximum benefit from their experience and to work safely (including a pre-placement visit).
6. Ensure that all relevant parties, including the student and parent/carer(s), know the pattern of the students' on- and off-school-site programmes, supervision and named contact details and arrangements for when students are ill or cannot attend.
7. Identify a named person to support and visit the student at their placement at regular intervals to monitor progress, continued suitability and assist with Key Skills and any other accreditation possibilities.
8. Ensure employer comments and reports are included in the student's Progress File and that the student has regular contact with their Personal Adviser from the *Connexions* Service.

(adapted with permission from Simulus Education)

Schools and their partners must comply with DfES child protection statutory guidance in relation to extended work experience. Children may be more vulnerable to abuse or harm in these situations than in block work experience. Organisations arranging extended placements need to ensure that policies and procedures are in place to protect students from harm, focusing greatest protection on settings in which children may be most at risk, for example when children will be placed for long periods in one-to-one situations with an adult.

Employers and training organisations need to be made aware of safeguarding issues and asked to cooperate in putting appropriate safeguards in place. These new requirements do not apply to any short-term extended work experience lasting one term or less, as the amount of time involved is broadly the same as conventional block work experience. For example, it would not normally be necessary to apply additional safeguards for a placement of, say 10 weeks for half a day or a day per week for students on an Increased Flexibility or Applied GCSE programme (unless any of the conditions set out as (a) to (e) below apply).

Additional safeguards will be necessary for placements in the same workplace when one or more of the following conditions apply. The placement is:

- (a) for more than one day per week;
- (b) for longer than one term in any academic year;
- (c) aimed at children who may be vulnerable, e.g. those who have special needs or are young (aged under 16);
- (d) one where the workplace supervisor or a colleague will substantial unsupervised access to the child, because of the nature of the business (i.e. micro business, sole trader or journeyman); and
- (e) residential or has a residential component.

The additional safeguards will, therefore, apply to most extended work experience placements. School staff or other partners who arrange, vet or monitor the work placements should have training in child protection. Employers or training providers hosting students should be asked to endorse a child protection policy or statement of principles. It would aid employers if such a document was drawn up by the school, EBP or other placement organiser. Any person whose normal duties include regularly caring for, training or supervising the student in the workplace should have a CRB check normally arranged by the organisation setting up the placement. This is intended to apply to staff who have a designated responsibility for the work experience students, not to all employees they may work alongside. Such members of staff should also have some basic child protection training and be aware of their responsibilities set out in 'What To Do If You're Worried A Child Is Being Abused'. They must given details of a person to contact if they any concerns for a student for whom they are responsible. Students should also be given clear advice and a point of contact in the school in case of any problems.

LEA responsibilities

The *1996 Education Act* provides that enactments relating to the employment of children do not apply in relation to work experience in the last two years of compulsory schooling where work experience is in pursuance of 'arrangements made' by the LEA.

All arrangements for students in maintained schools must be made by the LEA or the governing body of a school on their behalf.

Work Experience: A guide for secondary schools, DfES 2002

LEAs therefore effectively give approval for the provision of work experience in 'maintained' schools. Centralised schemes, with a common LEA- or LSC-wide policy, are now commonplace, though not all schools join these schemes, and some instead choose to 'go it alone'. The LEA can delegate approval of the scheme to the school's governing body, providing the scheme adheres to the law, and to DfES and LEA guidelines. This adherence is particularly essential in relation to potential liability issues and insurance cover.

The governing body, on behalf of the LEA, can approve the arrangements for work experience. If the LEA permits the governing body of a school to make arrangements on its behalf, it will have to be satisfied that adequate arrangements are in place to ensure that the obligations placed upon the LEA are being met. The school's health-and-safety responsibilities cannot be delegated even when other management responsibilities have been delegated.

DfES guidance gives LEAs the following responsibilities:

- *Support, guidance, policies and procedures to ensure safe and healthy systems;*
- *Competent person involved in arranging or approving placements;*
- *Clear insurance advice that is communicated to schools, parents and employers;*
- *Arrangements for LEA monitoring and review; and*
- *Compliance advice relating to contracts involving government support funding, e.g. health and safety vetting requirements under contracts with the local LSC.*

(Work Experience: a guide for secondary schools, DfES 2002)

Under DfES child protection statutory guidance, schools and LEAs should have policies and procedures that define what actions should be taken, by whom and when, if any child protection issues are raised prior, during or after the extended placement.

Case discussion

Case 1 – Cutting the work experience programme

A small number of schools across a region have stopped offering work experience. Some are schools which are performing badly in the achievement and attainment tables. Others have a high proportion of high achieving students and high progression rates to higher education. For different reasons, head teachers have decided to stop offering work experience as part of the curriculum.

Discussion

There is no legal requirement for schools to offer work experience to Key Stage 4 students. However, it has long been a government objective that students should be offered a two-week placement in Y10 and 11. Surveys of work experience have also shown that it is very popular with the great majority of parents and students. It is also the case that most schools and most students have a work experience during Key Stage 4. Nevertheless a very few schools have axed work experience for all pupils often on the assumption that it did not contribute in a direct and measurable way to student and school performance.

However, the situation has changed with the introduction of a statutory requirement for schools which made work-related learning for all students in Key Stage 4 a compulsory element of the National Curriculum from September 2004. This must involve learning through, for and about work. Work experience is arguably likely to be the central feature of most schools' work-related programmes. It would be much more difficult for schools to deliver the statutory entitlement, if they did not offer work experience. The decision to cut an established programme in this case would be short-sighted given the introduction of the work-related learning requirement. There are likely to be significant costs involved in trying to re-establish a work experience programme once it has been closed. It would also mean running other work-related activities which benefited all students. Work experience has historically been the work-related learning opportunity from which all students can benefit.

Case 2 – Younger students

A school wishes to introduce one-day-a-week extended work experience for some Y10 students as part of their Key Stage 4 extended work-related learning programme. The same pool of employers will be used as for the main, autumn term, Y11 block programme.

Discussion

Many schools and employers believe that many students are not mature enough either physically or emotionally to benefit from work experience at the start of Y10. However, many students are now attending extended placements from the start of Y10 and it is important that their age is taken into account when the matching process is undertaken. The employer will be used to 15- and 16-year-olds attending the placement and may not take into account the fact that the Y10 student may be only 14 when they begin the placement. The school should notify the employer of the age of the student in years and months on the first day of the placement. The employer will then be able to make a realistic risk assessment based on the immaturity and lack of experience of the student. In some working environments it will be prudent for the activities to be restricted to lower-risk tasks for the first two terms of Y10.

Statutory guidance on child protection introduced in June 2004 means that the school must have a child protection policy and clear procedures in case of a problem before, during or after the placement (see previous pages for more details). Teachers arranging, vetting or monitoring the placement should have training in child protection. The employer will need to endorse a child protection policy or statement of principles. The person with the designated responsibility for supervising work experience students should be CRB checked and given basic child protection training. The students will also need to be given clear advice and contact details of a teacher they can contact in the unlikely event of any problems.

Case 3 – Compensation

A student on work experience is injured when at the end of his working day he decides to take a short cut through a workshop he has been told is off-limits.

Discussion

This case is based on a real example. The employer or their insurers will not be obliged to pay compensation for an accident the boy brought upon himself. Provided the employer can establish that the boy understood the warnings and ignored them, that the prohibited route was shown to him and machinery was properly guarded, then establishing negligence to substantiate a claim will normally fail. He will only get a payout if the employer decides to be generous. In 1988, the Van Oppen case (see Box 3.2) established that schools are not obliged to provide personal accident insurance (PAI), which pays out without having to establish negligence. In this case the school did have PAI payable on a sliding scale of compensation up to £100K for permanent total disablement. However, the boy made a full recovery and a payment would only have been made if an injury had long-term implications for him.

Box 3.2: The Van Oppen Case

This young man was a popular student at Kingston when he attempted to sue the trustees of his old school for negligence, following a rugby accident which left him partly paralysed. This condition wrecked his plans of a naval career. His claim was based partly on the fact that a £100,000 policy (through the Rugby Football Union) had been available to cover his school sporting injury, but the school had not taken up the offer. Rejecting his claim for damages a High Court Judge ruled that there is no general duty for a school to insure its students against personal accidents, only an obligation to educate, and exercise reasonable care.

Case 4 – Saturday job

Daniella has been working every Friday in the service office of a local car dealership. She expressed an interest in motor vehicle repair, and arrangements were negotiated with school for her transfer to the workshops in the summer of Y10. She discovered an aptitude for the use of electronic analysis equipment and is now investigating an Apprenticeship with the company. The proprietor is very pleased with her progress and potential and has started her in paid employment on Saturdays. The school asks their education social worker to issue a work permit and he tells them he cannot. Daniella, her parents, the employer and the school do not understand the logic of her being able to do work experience there, but not work on Saturdays.

Discussion

This case is based on a real example. The *Education Act 1996* enables Daniella to assume the temporary status of a young person for the purposes of properly organised work experience. This is because while she is under the minimum school leaving age (MSLA), she is still a child for the purposes of employment law. The law generally states that no child shall be able to work in an industrial undertaking like the motor vehicle workshop, though she could work in the office. Work experience should be organised and monitored to quality and safety standards that are not always present in the arrangements made by individuals and parents for part-time work of school age children.

There would appear to be no reason why the school could not extend the work experience for Daniella to cover Friday and Saturday, though the stumbling block is that DfES guidance (2002) says she must not be paid for this. She can be given reasonable expenses and some employers have been imaginative and might have given her a few paid hours in the office as an incentive. One garage employer rewarded his Saturday trainee mechanic with additions to the boy's collection of 'snap-on' tools, in preparation for him transferring to an Apprenticeship.

Check your understanding

- What are the main differences you need to take into account between extended and block work experience?
- What are the key health and safety documents that every school coordinator should have for reference?
- Which body has responsibility for approving your work experience programme?
- In what ways are child protection, data protection and equal opportunities legislation relevant to your work-experience programme?

Action

- Ensure that you have adequate training for your health and safety vetting to be considered competent.
- Plan for the worst-case scenarios to test out your systems.
- Review your documentation to ensure that all parties are aware of their legal responsibilities.

4. Enterprise and employability experience

Introduction

The National Framework for Work-Related Learning (QCA, 2003) states that all students should be given opportunities to “*recognise, practise and develop their skills for enterprise and employability*”. The focus of this chapter is on the legal aspects of enterprise activities. In particular, attention is given to the trading of products and services produced by enterprise companies. Some of the activities which schools organise under the heading of enterprise may take place off-site at colleges or on employers’ premises. It is important, therefore, to consider some of the issues of supervision and child protection raised in chapter 2.

There are several ways in which mini-enterprises vary which are relevant to these discussions. First, many mini-enterprises or mini-companies that take place within the curriculum do not involve outside advisers. However, there are more issues to be considered where business advisers meet with student companies after school (such as child protection). Second, students working on design, making and selling projects with a company may be involved in visiting the company and in meeting their business contact in and out of school. Third, students making and selling products or services for money may be doing this (a) within the school to pupils and staff, (b) at school events to parents and the general public, (c) at markets, fairs, or via a website. This involves consumer law. Fourth, albeit not registered companies, school-based enterprises do simulate real businesses and often engage in fund raising through issuing shares, sometimes borrowing funds and entering into contracts.

School responsibilities

The first issue for schools when setting up enterprise activities is: Should the school establish their own stand-alone enterprises, or should they join a larger organisation?

Young Enterprise is a national organisation which has been funded, in part through Government, to support school-based enterprises. There are several enterprise programmes on offer for pre-16s. Student companies register with Young Enterprise through the website (www.young-enterprise.org.uk/); then the company becomes a part of the national, not-for-profit company. In this sense it becomes a real business with the rights and obligations that go with that legal status. All Young Enterprise companies receive guidance on the legal aspects of running their business. They are also covered by public liability and product liability insurance. There are also a set of rules about what products and services may not be offered for sale, because of health

and safety, consumer protection or other reasons. Young Enterprise companies are also advised to consider British Standards, laws relating to the marking of prices on goods, weights and measures and the role of patents and the Patent Office. For commercial reasons, this legal guidance is only available to Young Enterprise companies.

Schools have a responsibility to ensure that the public and students are not harmed in any way through the making and distributing of goods and services produced by school-based enterprises. It is feasible that an LEA or EBLO might establish a similar system of rules (to Young Enterprise) to cover enterprise companies in their area. Given the resurgence of enterprise activities following the Davies Review and DfES funding for enterprise in schools from 2005, it is likely that more LEAs will issue guidelines for schools to follow with respect to enterprise companies. Clearly, schools should check with the LEA or EBLO to see if such guidance exists before establishing mini-enterprises. DfES guidance to be published in late 2004 based on the Enterprise Learning Pathfinder programme will cover this aspect of enterprise activities.

It is important that local guidance contains a list of prohibited products and services. This is one of the real-life constraints that it is important to place on students when they are at the creative stage of developing their enterprise ideas. Many of these prohibitions can be drawn up on the basis of common sense and would include, for example, cosmetics and electrical goods. A second aspect of the guidance would cover insurance arrangements. Clearly, schools have public liability insurance which covers most injuries to third parties including the customers of a mini-enterprise company. However, it is advisable to check with insurers that such activities are covered, before trading. During the 1980s schools were advised to stress that the mini-enterprises were *educational* not *commercial* undertakings. It was thought that this would avoid the need for product liability insurance. However, if this was tested in court it is likely that consumer legislation would still apply.

There are several legal issues which are relevant to mini-enterprises where the aim is to simulate reality as closely as possible. One of the key learning points to be derived from such activities is that students know and apply laws which relate to small businesses. This would include health and safety principles when carrying out the work tasks involved in making and selling their product or service. They would also need to understand the importance of equal opportunities issues in their internal working and when dealing with the public. Probably most important is the awareness of consumer legislation. Student companies that want to design particular products can use the Internet to investigate UK and EU specifications and rules. For example, the manufacture and sale of toys, which are a common enterprise product, are governed by *The Toys (Safety) Regulations 1995*.

There are an increasing number of mini-companies advertising on the internet via their own website. This has caused some problems in that customers have been unaware of the status of the company. Also other businesses have thought that a new, long-term competitor had entered the market. Thus, to avoid these problems, school-company web sites and other forms of advertising should clearly state that this is a school-based

enterprise which forms part of the curriculum. It should also state that the aims of the activity are educational and that the company will be wound up by a particular date.

The statutory child protection guidance introduced in June 2004 gave Governing Bodies a responsibility for making sure that appropriate checks are carried out on new staff and volunteers. However, the guidance (www.teachernet.gov.uk/childprotection) also leaves discretion with the head teacher about which volunteers should be CRB and List 99 checked. Checks are not intended to apply to business volunteers attending schools to give talks, to take part in lessons or industry days or other one-off events. They do, however, apply to mentors and other business people who will be working with students regularly over a period of time.

Case discussion

Case 1 – Gut ache

Students involved in a catering mini-enterprise sell a selection of hot food snacks at lunch and break to other students. Some of the students complain of feeling ill and blame the food they consumed from the mini-company.

Discussion

This is a situation that has not been reported, but it could happen to any business selling food to the public. Clearly this situation is a major cause for concern and the school will have to investigate the circumstances with the help of the local environmental health department. The school should have been aware that any kitchen facility used was required to have been inspected and approved by the local environmental health department before the enterprise activity started. The student participants should have achieved a Basic Food Hygiene Certificate, and a risk assessment should have been carried out in conjunction with the Head of Food Technology and, preferably, also with an environmental health food specialist from the local authority. The school may have sensibly sought advice from their in-house or contracted caterers, particularly over the practicalities and regulations governing the retention of samples of food produced for analysis in the event of an outbreak of food poisoning or a complaint.

Case 2 – Little green men

A Science enterprise company involved students making bubble bath for sale at the school fair. A number of parents complain to the head teacher that the dye was too strong and members of their family had turned green for a couple of days until the effects wore off or were scrubbed off.

This is based on a reported case from a school-based enterprise in the 1980s. Under no circumstances should students be involved in manufacturing new products using chemicals. This applies in particular to any cosmetic that will be in contact with the skin of customers. Enterprise companies should also not break down and repackage such products, as the chemicals can change through exposure to the atmosphere. The only acceptable enterprises selling such products are where they are engaged in bulk purchases of proprietary brands, which they are, in effect, distributing. This is a clear example where LEAs, EBLOs and schools need a list of approved, safe and/or unapproved, unsafe products and services that mini-companies can offer. Local Trading Standards offices should also be able to offer advice. Until such guidance is available it is best to avoid any products or services which carry potential risks to customers of the mini-enterprise.

Case 3 – Rip off

Students involved in a magazine enterprise ‘borrow’ text and artwork by scanning in material from a local youth magazine. This is advertised on the school website and the publishing company contacts the school, complaining about plagiarism.

Discussion

Clearly, the students have breached copyright law and steps will have to be taken quickly to remove the material from the website and establish a damage-limitation strategy. This will depend on the attitude of the publishers to young people experimenting with images and text. There should be a system in place in the school to ensure that material cannot be put into the public domain, via the website, without the scrutiny of a member of staff with an understanding of material sourcing, copyright and the protection of intellectual property. The problem might also have been avoided if the school had a link with the local magazine.

Using extracts should not be confused with using large chunks of someone else’s efforts where written permission and advance payment of a fee is often involved. On the other hand, some individuals and organisations are more than happy to support education activities without reward. Acknowledgements should never be spared. In this case there is hope that the publishers have empathy with the school and assist with an important lesson to be learned by the students and the school.

Case 4 – Valeting service

Students running a car valeting service receive complaints from a local resident that they have damaged his car by the abrasive used on the paintwork. The students claim that it was already damaged. On top of that, a commercial valeting service complains to the head teacher about unfair, subsidised competition taking away their custom.

Discussion

Car valeting is a popular enterprise activity that does have its problems. Whether anyone can prove that the client's car was damaged beforehand is unlikely. Students should not use abrasive 'paint cutting' materials, because of the obvious implications. Materials should be carefully vetted by the school staff and the research phase can make an important contribution to the exercise. Any brushes selected should be carefully scrutinised for the possibility of scratching, and engine cleaning solvents should only be used under supervision. The biggest danger in car valeting has arisen in recent years from leaving the keys in the ignition. The temptation to move the vehicle a little closer to the hose or vacuum is often too great. Many commercial hand car-wash operators ask the client to stay while the valeting is carried out. Such practice seems sensible for school valeting services as this should enable the owner to check out the procedures and materials being used.

The local car valeting company is unlikely to get anywhere with their unfair competition complaint. The school could point out that it is an educational activity of short duration and is not intended to undermine local business. However, this may also provide an opportunity to forge a link with the business for work experience and the manager may also be invited to advise the mini-enterprise car valeting company. Mini-company literature could say that they were advised by the local valeting service and include the company's leaflet in information to their customers. Schools can also build in more real-life factors, such as rent for use of premises, which will help students to understand the range of costs that need to be covered when fixing prices.

Case 5 – Classroom supervision

A business partner visits a school to run a one-day employability skills workshop with a group of Y10 students. In the morning of the first day, the Business Studies teacher sits in with the group and all seems to be going well. In the afternoon session, the teacher decides to go to the staff room to get on with some marking as he has heard the workshop presentations before.

Discussion

Business partners are almost invariably not qualified teachers and, therefore, they should not be left in charge of a class. They have had neither the training nor experience to cope with a class of young people. Business people can only be left alone with small reliable groups of students where a teacher is nearby, for example, in an adjacent room where they could easily intervene. In this case the school would be vulnerable to a charge of negligence in leaving an unqualified person with this class in the eventuality of problems occurring.

Check your understanding

- What additional protection is available through joining a national scheme such as Young Enterprise?
- What insurance arrangements are appropriate?
- What factors should govern whether the enterprise is restricted to the school or broadened to parents and people living in the vicinity of the school and beyond (through web sales)?

Action

- Investigate whether there are LEA or EBLO guidelines covering what mini-companies can or should not make and sell;
- Seek to involve at the planning stage advisers from local businesses and, where appropriate, from trading standards and environmental health;
- Consider taking out product liability insurance, if selling to the public; and
- Ensure that students investigate relevant laws governing the products and services they intend to make and supply as part of their preparation.

5. Workplace Visits

Introduction

Workplace visits are one of the most popular and long-standing types of work-related learning activity. They are a form of educational visit, and DfES and LEA guidelines for schools apply and are discussed in this chapter. However, there are additional factors that need to be taken into account by schools: for example, the fact that the visit is to a place of work where there may be machinery and equipment. Students may also be engaged in various tasks during the visit.

Useful documents

DfES has published comprehensive guidance for schools on organising educational visits, *Health and Safety of Pupils on Educational Visits* (1998), which should be studied in conjunction with this chapter.

The most common form of visit is a group of students accompanied by a teacher visiting a workplace for half a day, having a guided tour and a closing session in a meeting room. However, there are a range of variations on this standard practice. For example, students might be accompanied by other non-teaching adults. The visit may involve a *masterclass* where students spend, say, two hours in a training room receiving briefings from various employees as part of a Business Studies class. Some companies have dedicated education centres, where former teachers or retired employees deliver practical activities to illustrate the operations of the company. An alternative form of this theme is the DfES initiative, *Playing for Success*, out-of-school-hours study support centres within top football clubs and at other sports clubs' grounds and venues. Centres recruit and train tutors/mentors, to work alongside students attending the centre. Typically, students attend centres after school and spend time with tutors/mentors using a range of ICT programmes in a dedicated computer suite. Tutor/mentors can be sixth form students, university and college students and local business employees, all seeking wider experience of different approaches to teaching and learning (see chapter 8 for full discussion of the legal issues involved in business mentoring).

Another form of visit is when groups of unaccompanied students visit a workplace as part of an investigative assignment to gather information by interviewing one or more employees about an aspect of the business. Individual students may also make unaccompanied visits when making a pre-work-experience visit for the purposes of interview and pre-placement briefing.

School and employer responsibilities

When organising workplace visits, schools retain the primary duty of care. However, the employer is responsible for the students when they are on their premises, or a site or situation where they have duties under the health and safety legislation and codes of practice.

Under the Health and Safety at Work etc Act 1974 employers are responsible for the health, safety and welfare at work of their employees. Employers are also under a duty to ensure, so far as is reasonably practicable, the health and safety of anyone else on the premises or anyone who may be affected by their activities. This includes participants in off-site visits.

(Health and Safety of Pupils on Educational Visits, DfES, 1998)

Schools should now have a designated post of responsibility for the oversight of educational visits – the Educational Visits Coordinator – and this person should be involved in advising on the security of the arrangements for a workplace visit. The DfES guidance (1998) is a detailed guide to good practice in educational visits, and teachers involved should become very familiar with its contents. As with work experience, teachers organising workplace visits do not need specific knowledge of that industry to be able to work with an employer on a risk assessment of a visit.

The risk assessment will best evolve from a combination of the employer's understanding of their industry and the teacher's understanding of the nature and dynamics of the group. Between them they will need to take the following factors into account:

- Preparation for the visit and materials needed;
- Compliance with the school and LEA visit procedures;
- An outline of the visit, its aims and objectives and emergency contact contingencies;
- Transport and routes to and from the workplace;
- Length of the visit, including rest and lunch breaks, supervised or unsupervised;
- The size and supervision levels of manageable groups and routes to be taken;
- A health and safety induction or briefing on the premises or site;
- Personal Protective Equipment required (including sizes), and appropriate clothing and footwear;
- The parameters of any activities involved and the likelihood of an accident or injury;
- Permission from parents – this may be generic for a series of visits; and
- Existence of insurance compliant with the *Employers' Liability (Compulsory Insurance) Act 1969*.

Case discussion

Case 1 – The lost boy

On a return trip from a workplace visit, one of the students with English as an additional language fails to get off the Underground train in time and is carried on to the next station. The teacher takes the rest of the party back to school. Next day the parents of the boy complain that the teacher abandoned their son.

Discussion

Travel on public transport often has numerous opportunities for a party to be split, either accidentally, or deliberately. Students should have clear instructions on exactly where they are going. Where possible, maps should be distributed and the school office phone number should be included with an instruction to phone there for advice should they become separated. Many schools have mobile phones for staff undertaking visits and these numbers should be given to the students. The teacher of the lost boy should have reported the loss to the school as soon as possible and asked them to contact the parents, establish a plan of action and continue contact until the boy returned home or was found.

Head counts with older students can be tedious and demeaning, if not well organised. It is often better to organise students into 'safety groups' of four with instructions to keep together and to raise the teacher's awareness of anyone missing. Counting the groups is easier than counting individuals. Speedier negative registration, for example on buses, is easy, if the students are told they must keep to the same seat throughout the trip.

Case 2 – Racial harassment

During a workplace visit to a factory, two of the Black pupils in the class complained to the teacher that they were racially taunted by one of the workers they met during the tour. This did not emerge until there was a complaint from one of the parents.

Discussion

Such examples of overt racism are, fortunately, unlikely. The incident should be thoroughly investigated to establish that it was likely to have happened and that there was no misunderstanding. If it does appear to be a genuine complaint, then records of the incident should be confined to 'matters of fact' excluding opinions, impressions or interpretations. The employer should then be contacted and asked to make a similar investigation. The outcome should be fully discussed with the students and their parents. The employer may advise on a course of action, which can be put to the student and parents for their consideration. Any indications that the school may be

colluding with the employer to cover up the allegations should be avoided. Help and advice should be available from an LEA legal department and the Commission for Racial Equality (CRE) (www.cre.gov.uk/).

Case 3 – Polymer burn

A day visit to a polymer plastics manufacturer by Design and Technology students resulted in them being given a short session at the end of the day working with small extrusion machines. The aim was to give each student a piece of plastic hosepipe that they have coloured and extruded to take home.

A keen student did not remember the instruction to allow the pipe to cool before touching it, and she burnt her hand. The girl had outpatient treatment for the burn and was back at school the following day. The manager and the teacher organising the visit had carried out a risk assessment and decided the activity should be included. A personal adviser from the local careers service heard about the accident and told the parents she should not have been on work experience until Y10. The parents subsequently complained to the LEA asking for compensation for the injury.

Discussion

This was an actual case, which was resolved in the following way. The LEA safety adviser was asked to investigate the accident and the issues arising. Her conclusion was that the day did not constitute substantive work experience and that the extrusion activity was a Design and Technology project on employers' premises that had been adequately supervised. Safety instructions given had been clear and appropriate. She advised that the employer re-visit the risk assessment and either provide protective gloves or instruct the students to stand further away from the extrusion which should be handed to them by their supervisor. The Safety Adviser added that this was an activity carried out in school Design and Technology laboratories; the accident could have happened there and there was better supervision of a smaller group in the factory. The burn did no permanent damage and she advised the LEA to write a letter of sympathy and regret, emphasising the value of continuing these activities with Design and Technology students. Schools can use the CLEAPSS (Consortium of Local Education Authorities for the Provision of Science Services) risk assessment materials available to support design and technology activities (www.cleapss.org.uk).

Check your understanding

- What are the relative responsibilities of employers and schools in workplace visits?
- Whose responsibility is it to assess any risk arising from a workplace?
- Can you list the factors that should be taken into account when risk assessing a workplace visit?

Action

- Find out who is responsible in your school for oversight of educational visits including workplace visits; and
- Make sure that you have a copy of DfES good practice guidance on educational visits.

6. Work Shadowing

Introduction

Work shadowing involves individual students spending time with someone from the world of work as they spend a typical working day. Students are briefed to observe work in progress as an employee carries out his/her role. However, research into work-shadowing schemes has shown that sometimes students help the worker with some of their work tasks. These will usually be low-risk office tasks that help to engage the young person and hold their interest. In some examples, students may be shadowing employees who travel, from people with company cars to executives who may be using trains and even planes. Schools should refer to DfES guidance on educational visits, *Health and Safety of Pupils on Educational Visits* (1998) which is pertinent to work shadowing.

A variation on work shadowing is ‘take your sons/daughters to work days’. This is an idea that came initially from the United States in the form of ‘take your daughters to work day’. It enables children to understand better the work undertaken by one or other of their parents. Students work shadow their parent at their place of work. So the key difference between ‘take your sons/daughters to work’ and work shadowing is the fact that it is the parents rather than a stranger who is spending time with the student.

School responsibilities

Some schools organise work-shadowing days when students make visits to employers’ premises. Students might be alone or in a small group. The responsibilities of the school are broadly the same as for workplace visits. This means that schools should follow the following broad, good practice guidelines:

- Present the aims, objectives and parameters of the day to students, parents and employers, if possible giving the same information to all parties;
- Organise a preparation programme for the day and ensure the activity follows DfES, LEA and/or governors’ guidance;
- Agree the ground rules for the shadowing with the employer, including rest and lunch breaks, level of supervision required and tasks students may undertake. Ensure there is a health and safety induction on the employers’ premises;
- Make travel and emergency contact arrangements;
- Obtain parental consent for the arrangements;

- Check the arrangements with the member of staff appointed as the Educational Visits Co-ordinator; and
- Ensure that any personal protective equipment (including sizes) and appropriate clothing and footwear are made available.

Employer responsibilities

When the student is on site or on their premises the employer is responsible for their health, safety and welfare. These responsibilities include:

- Ensuring that employers' liability insurance is in place;
- The plan for the day is appropriate and supervision of the students is adequate;
- Students do not have unsupervised access to people who are debarred from working with young persons;
- Personal protective equipment is provided; and
- There is a health and safety induction or briefing on the premises or site, including evacuation procedures.

Case discussion

Case 1 – Take your daughters to work day

A mixed comprehensive school sets up a 'take your daughters to work day'. Through the Schools Council, boys in Y10 complain that setting up an activity for just the girls infringes sex discrimination legislation.

Discussion

This example does involve sex discrimination. 'Take your daughters to work' days developed in the United States at a time when there was a strong feminist critique demonstrating that there were different expectations of girls and lower aspirations in terms of their working lives. In that era it was justifiable to single out young women for additional work-related learning to counteract widespread sex stereotyping. Today in the UK, although there are still strong elements of job segregation the concept of take your daughter to work seems rather old-fashioned and understandably likely to raise equality issues among the boys, their parents and teachers (except, of course, in single sex girls' schools).

This case is based on a real example from a South London school, but the focus there was on Y8 and 9. A decision was made to make the day available to boys and girls. With two year groups involved, this amounted to half of the school being off-site for the day. The equal-opportunities issue extended to the difficulties posed by the large

number of pupils with single parents and/or no parent in employment. To overcome these difficulties the programme evolved into an industry day for the two year groups and half the staff, including support staff. Employed parents were asked to accommodate two pupils, if possible, and some teachers volunteered to seek opportunities for themselves and students. A five-kilometre radius limit was imposed to encourage links to local employment opportunities for their pupils.

Case 2 – Shadow protection

A work-shadowing scheme has been arranged for students on a performing arts course with various adult theatre groups and media companies. Most of these places are used for work experience and have been cleared for health, safety and insurance. However, a senior member of staff says that staff being shadowed may have regular, unsupervised access and must be CRB checked. This puts the whole scheme in doubt, as there are not the resources to do this and the organisations involved have not been told that this would be a requirement of the scheme.

Discussion

As in the case of work experience where supervision of young persons is a regular or designated role of the person, then a CRB check should definitely be carried out. A risk assessment of the situation may result in a decision to run a CRB check on a worker, but generally this is not required in work shadowing unless the person is given a specific role, for example, to run regular courses for young people. The Director of any media company involved is responsible in law for ensuring that any adult who presents a danger to young people, or is debarred from working with young people, does not have regular, unsupervised access to them. Furthermore, it is an offence for a debarred person to supervise a young person, or to attempt to work closely with them.

Case 3 – Company car

A girls' school has organised a work-shadowing programme for volunteers in Y10 which involves girls spending a day with a female manager. A risk assessment reveals that some of the managers will be travelling to different workplaces and other venues on the day concerned using a variety of methods of transport including company cars, taxis and trains. If the girls are not allowed to accompany them this would mean losing a third of the placements. They would also not get a realistic picture of a day in the life of a female manager which is the objective of the exercise.

Discussion

This is not an uncommon situation and a few simple precautions should ensure that enough has been done to establish that the school has exercised due diligence. The risk assessment should identify that certain things have to be in place and it is wise to have recorded the thinking behind decisions. It will help if the outline plan of the day is addressed to both business person and student. This should make clear that students must only travel in company or personal cars that have relevant insurance cover.

The outline plan of the day should include 'generic' references to possible permutations of transport including public transport, for example buses, tubes and trains and where possible stipulate that licensed taxis should be used. A licensed cab is subject to inspections, and minimum comfort and safety standards. Asking students and parents to agree to the terms and conditions of the shadowing should be accompanied by the opportunity for them to contact the school to discuss any concerns they have.

Check your understanding

- What are the school's responsibilities in organising work-shadowing days?
- What equal-opportunities issues arise from 'Take your daughters to work' days?
- Can work shadowing students undertake some work tasks to prevent them from becoming bored?
- Do employees being work shadowed need to be CRB-checked?

Action

- Check arrangements for work shadowing and 'Take your sons/daughters to work' days with the school Education Visits Coordinator; and
- Clarify your policy on what work shadowing students can and cannot do during the experience.

7. Residential experience

Introduction

Work-related learning activities may involve staying away from home. The range of experiences may include, for example:

- Work-experience living on site, for example, at an outdoor pursuits centre;
- Subject-based field trips involving, for example, visits to farms;
- Team-building activities at a residential centre;
- Weekends away with a group of business mentors;
- Weeks working with the armed services; and
- Weeks away on board sail training ships.

The DfES has produced a detailed booklet, *Health and Safety of Pupils on Educational Visits* (1998), designed to help head teachers, teachers, governors and others to ensure that pupils stay safe and healthy on school visits and residential. The booklet does not seek to replace local or other professional guidance or regulations. Where appropriate, LEAs should be the first source of advice. The booklet offers national guidance, where guidance from elsewhere may be unavailable, incomplete or not up to date. It was based on a wide consultation with schools, LEAs, teacher unions and other professional bodies and collates existing good practice.

New guidance to supplement the original 1998 guidance was published in 2002. *Standards for LEAs in Overseeing Educational Visits*, *Standards for Adventure Centres* and *A Handbook for Group Leaders* are three supplements to the guidance. These materials can all be downloaded in PDF files (www.teachernet.gov.uk).

- *Standards for LEAs in Overseeing Educational Visits* sets out good practice for local education authorities in overseeing educational visits carried out by schools. Schools, youth services and others may find the principles set out here useful too;
- *Standards for Adventure* is aimed at the teacher or youth worker who leads young people on adventure activities; and
- *A Handbook for Group Leaders* is aimed at anyone who leads groups of young people on any kind of educational visit. It sets out good practice in supervision, ongoing risk assessment and emergency procedures.

School responsibilities

It is recommended that each LEA should appoint an outdoor education adviser to oversee and monitor educational visits. It also recommends as good practice for each school to have a named member of staff who will undertake the role of Educational Visits Coordinator (EVC). The guidance urges LEAs to produce generic risk assessments for the most common activities, in order to reduce the workload on teachers. Teachers then need only to assess the risks specific to the visit they are arranging (for example, the site and the needs of the pupils).

Most school visits take place without incident and it is clear that teachers are already demonstrating a high level of safety awareness. But, following a number of tragic incidents involving schoolchildren in the last few years, there is a growing concern amongst school staff and parents about further ensuring the safety of pupils on school visits.

(Health and Safety of Pupils on Educational Visits, DfES, 1998)

The management of health and safety on residential visits is part of a school's overall policy on health and safety. The booklet and supplements set out broad principles, rather than trying to cover every eventuality, leaving it to teachers' professional judgement how to apply those principles in particular circumstances. Head teachers, unions and professional associations have said that the extra bureaucracy could turn teachers off the idea of organising off-site activities. However, the large number of tragic accidents on residential visits has focused attention on poor planning, and having an experienced EVC to help with arrangements should give reassurance. The guidance says:

This does not mean that the school should create and fund a new post, the guidelines say. Rather, the formal recognition of the EVC function will help the school fulfil its health and safety obligations for visits. It also helps the head teacher to delegate the tasks involved in overseeing the school's educational visits. The EVC should be competent in those tasks and have the authority to carry them out. The coordinator should seek advice from the LEA's adviser "or an appropriately qualified technical adviser" as necessary.

When organising team-building activities many schools are now using the adventure facilities offered by commercial firms, charitable organisations or local authorities – which are subject to inspection and licensing. Nevertheless, a significant number of schools continue to organise and lead their own core adventure activities, the guidance says.

Under current legislation these are not subject to national inspection and licensing. This is because schools are not required to hold a licence when making provision for their own pupils.

The Minister for Young People and Learning, Stephen Twigg, has said that school trips are an important aspect of every pupil's education, but safety has to remain the priority.

Parents and pupils need to know that every measure will be taken to protect their children from danger. LEAs and teachers need to feel confident that they have the training and clear framework to carry out their jobs safely and successfully. We are absolutely determined to meet these twin demands.

Clearly there is need for the EVC to receive training in the application of the principles of the guidance with appropriate support from the LEA adviser. The three guidance supplements set out clearly the different responsibilities for oversight of health and safety in Community, Voluntary Controlled and Foundation schools. There is also very specific advice on water safety as the majority of deaths on residential have been from drowning. In 2003, the first UK teacher was jailed following a tragic accident at a residential.

Group Safety at Water Margins is aimed at anyone who organises learning activities that take place near or in water, such as a walk along a river bank or seashore, collecting samples from ponds or streams, or paddling or walking in gentle, shallow water (www.teachernet.gov.uk).

Where work experience is residential, child-protection issues become important. In certain circumstances it will become obvious that it is necessary to gain permission from the employer, or identified supervisor in the workplace, to undertake a CRB check. A good example is where there is a need for the student to be at a residential centre while on their work experience, e.g. as an assistant instructor at a remote outdoor activity centre. It is advisable to ensure that the centre is licensed by the Activity Licensing Authority, as this will give the school confidence that the placement complies with a high standard of health and safety, and child-protection procedures are in place.

Provider responsibilities

Providers can include a commercial or LEA activity centre, a training centre with accommodation, a teaching farm with accommodation, a Youth Hostel etc. There may be a number of providers involved, for example, when a mentoring charity uses a residential centre to enable them to organise leadership training. There may be circumstances when a local *Connexions* Service makes the arrangements for selected pupils from a number of schools. In these circumstances they would be wise to follow the same guidance as the schools. The partners in any residential experience need to carry out a risk assessment and look at:

- Child-protection issues, e.g. ensuring there are an adequate number of persons approved (CRB checked) to work with and supervise young people;
- Fire and other emergency evacuation procedures;
- Unsupervised times and the parameters of any free-time;
- Possibilities of alcohol or drugs increasing the likelihood of injury or incident;

- Any activities involved;
- The security of money and valuables;
- The locality and any dangers nearby; and
- Security at night and how to raise an alarm.

Case discussion

Case 1 – Farming in Wales

James is at school in central London, is interested in farming, and he and his parents have identified a sheep farm in North Wales where he would like to do his work experience. He is very upset that the school will not help him. They are insisting he chooses a placement from their database, where he does not have to stay away from home. The Education Social Worker has said the farmer will need to be CRB checked and there is not enough time. The work experience coordinator says she will not be able to visit a farm in Wales and, as farming is high risk, he cannot go.

Discussion

This is based on an actual case. As James will be resident at the farm, a CRB check on the farmer seems essential. Furthermore, the placement is potentially high risk and should be visited to determine its suitability. However, further investigation reveals that the farmer, Gwyneth is married and her husband, who is an accountant, also lives on site. They have two teenage children living there and are well known to the local careers service, who use the farm regularly for work experience placements. The farm has been used for five years without incident or accident and is re-visited every year by a specialist health and safety visitor from the local LEA work experience unit. James' parents met Gwyneth and her husband while holidaying in the area and have been on a tour of the farm. James is a confident 15 year old, and his parents are happy that he will manage to look after himself on the train journey; and he will be met by Gwyneth at the station at the other end. The local careers service have offered to time this year's health and safety re-visit while James is there, and will complete a record of achievement for him. In this case, a definite 'no' was turned into a 'yes' through positive action to put control measures in place.

Check your understanding

- Who in the LEA is able to offer advice and support on residential experience?
- What evidence is there to identify the main hazard to young people going on residential?
- Where can you find good practice guidance on residential experience?
- What are the main risks that providers have to control for when accepting school parties for residential experience?
- Who in your school is designated as the Educational Visits Coordinator, and are they helping you secure your arrangements

Action

- Make contact with the key individuals in your LEA and school with responsibility for advising teachers on residential experience; and
- Read the guidance on educational visits and research residential experience.

8. Business mentoring and e-mentoring

Introduction

Business mentoring has grown rapidly in England since the first programmes began in the early 1990s. Business mentoring involves someone from business, typically a young manager, mentoring a student over an academic year. In most school-based business-mentoring programmes, the mentors meet their mentees at the school. However, in some business mentoring students are mentored at the workplace either while on extended work experience or as the principal site for the regular meetings.

The recent development of business e-mentoring programmes has enabled more busy business people to take part in volunteering to support schools and students without leaving their work station. In e-mentoring schemes, mentors and students communicate via school and company email addresses. There are also web-based, e-mentoring schemes which have greater levels of security than the email-based programmes. Both face-to-face and business e-mentoring are significant forms of work-related learning in that they involve students learning from people from the world of work and developing employability skills.

Some schools run their own business-mentoring programmes but many rely on support from their local EBLO to provide trained and CRB checked mentors. The main body providing support for business and other forms of mentoring in schools is the Mentoring and Befriending Foundation (MBF) (previously known as the National Mentoring Network (NMN) (www.mandbf.org.uk).

School and partner responsibilities

Quality standards

The main principles and good practice involved in establishing a business-mentoring scheme are well understood. The principles have been codified in a national quality standard developed and disseminated by the NMN and supported by Government. The *Approved Provider Standard* is a generic minimum quality standard covering all forms of mentoring. In the long term the policy is for all organisations receiving funding for mentoring to meet these standards. They provide an excellent way of checking that a school's business mentoring programme is of a particular quality. The NMN in consultation with pilot schools launched the *Excellence in Mentoring in Schools* quality framework and standard. This has been written to cover school-based mentoring schemes including business mentoring. Information about both quality standards

can be obtained from the MBF. In both cases schools can produce a portfolio of evidence to support their responses to several key questions about their mentoring scheme. Successful applicants receive a kitemark, which can be displayed in the school or on headed notepaper, indicating that it has achieved the national quality standard for mentoring. Although neither of these standards provides a guarantee that a scheme will be trouble-free, if there were a problem then achievement of the standard would demonstrate that quality systems had been put in place and externally approved.

Planning

At the planning stage, it is important that there is a clear rationale for the business-mentoring programme, including a set of objectives and a target group of mentees. The critical decisions involve the basic parameters of the programme, such as: the recruitment and selection of mentors; the location and frequency of meetings; the setting of boundaries; and monitoring and supervision. Once the scheme can be accurately described, then it is possible to undertake a health, safety and welfare risk assessment. This will enable the school to identify the key risks associated with the programme and to spell out the control measures that will be put in place to reduce or eliminate those risks.

A key issue for schools is the identification of a mentoring co-ordinator with a defined role and designated responsibilities for the programme. The chief reason for the failure of school-based mentoring programmes and the problems that sometime arise is the lack of a fully-committed school coordinator. When the school is relying on an EBLO or other agency to provide the mentors for the scheme, then it is important that there is some form of written and signed agreement which sets out the responsibilities of each party. This could be in the form of a service level agreement or a partnership agreement. This will help, in the event of a problem with a mentor, to sort out the various roles and responsibilities.

Another decision which can be made in the planning stage concerns equal-opportunities issues in matching. In most schemes there are more women mentors than men (roughly 70:30), but the balance of mentees (in mixed schools anyway) is generally the other way around. Many scheme managers do not allow a male mentor to be matched with a female mentee for reasons of child protection. Although, in principle there is no reason why a CRB checked adult male should not act as a mentor to a teenage young woman, in practice this is probably a match to be avoided.

Parents

Schools' duty of care means that parents have to give their permission for their children to be involved in a business-mentoring programme. The majority of schools confine parental involvement to the signing of a tear-off permission slip. Most mentoring practitioners think that the essence of a successful mentoring relationship is that it is voluntary on both sides. Hence most schools may target a fairly wide group of students who they think might benefit from business mentoring, and offer the scheme on a voluntary basis to those who come forward. Some schemes do encourage mentors to

meet parents on the grounds that parents will want to know who is acting as a mentor for their child. This is particularly the case with minority-ethnic parents where mentoring is often a function of the extended family. The meeting is not so the parents can vet the mentor, but rather to reassure them. A way round this issue is to invite parent, mentees and mentors to a social evening at the school where they can meet and talk informally.

Mentee preparation

The national quality standards for mentoring referred to above require preparation of mentees. This is an important aspect of fulfilling the school's duty of care and ensuring child protection. Mentee briefing should include a session on boundaries in the mentor-mentee relationship and clear ground rules about contact between mentor and mentee. Only if mentees are fully aware of these boundaries and ground rules will they understand when there has been a breach. However, in spite of this the NMN found that mentee briefing is a major area of weakness in many schemes.

A useful precaution is also to include in the curriculum personal safety briefings of the type offered by The Suzy Lamplugh Trust. The Trust works alongside Government, the police, the educational establishment, public bodies and the business sector to encourage safety wherever people may be at risk – in the home, at work, in public and in schools and colleges, on public transport and when travelling at home or abroad (for more information visit (www.suzylamplugh.org/home/index.shtml)). Most mentoring programmes insist on contact only being through recognised channels. The rule is usually that school and business telephone numbers and emails addresses should only be exchanged for contact. Generally, home and personal numbers and addresses should not be exchanged.

Insurance

Personal accident insurance (PAI) is recommended, but it is not a requirement for schools to take it out. The cover is available for schools, colleges and can extend to all the activities organised by the school, in or out of hours, on- or off-site including mentoring. Volunteer mentors are covered under school and college public liability policies. The head teacher or principal should make sure a note is made in a log book and that governors are informed that volunteer mentors are being used and a register is kept. Mentors should not be required to arrange any special cover. In taking part in any scheme, the school will be liable for its part, including security of mentors; and consequently will be liable for negligence in their selection and involvement. To ask the mentor to insure as well would be paying twice for the same cover.

Child protection

The statutory child protection guidance introduced in June 2004 gave Governing Bodies a responsibility for making sure that appropriate checks are carried out on new staff and volunteers. However, the guidance (www.teachernet.gov.uk/childprotection) also leaves discretion with the head teacher about which volunteers should be CRB and List 99 checked. It does, however, apply to adult mentors and other business people who will

be working with students regularly over a period of time. The basics of child protection should be included in mentor training and should form part of mentee briefing.

While CRB checks are necessary, they are not sufficient to ensure the safety of the young people. It is essential that schools, EBLOs and other organisations supporting mentors have policies in place for vetting would-be mentors. The younger and/or more vulnerable the young people, then the more thorough and longer vetting procedures need to be. On the other hand, mentors can be difficult to recruit and retain, and what appears an onerous selection process may well deter some potentially excellent mentors. There is a need for a balance to be struck between selection criteria based on expressions of interest and a short period of training, and those which require interviews and successful performance of skills.

Mentor screening can involve four main stages:

1. *Induction* – mentors attend an initial briefing following an expression of interest. Here they are informed about CRB checks and the screening procedure.
2. *Interviews* – in some schemes with more vulnerable young people the mentoring team will interview prospective mentors. However, this is not the norm in most business-mentoring programmes.
3. *Training* – mentors attend a training programme which can vary in length and content. Most training covers: the background and rules of the programme; the school and the student group; and the skills of mentoring. Business-mentor training for work in schools tends to be shorter than in many mentoring programmes, because (a) business people are deemed to be busy and unwilling to attend longer training; and (b) it is thought that they will have already had some of the inter-personal skill training essential for mentoring.
4. *CRB checks* – the school, EBLO or local authority may be registered to carry these out.

Mentoring coordinators generally should have so called ‘red flags’, that is, warning signs that mean someone would not be an appropriate mentor. These can include:

- Inappropriate motivation which means they have some hidden agenda in wanting to be a mentor;
- Indications that they are likely to be a poor listener and/or will be over-prescriptive in the mentoring relationship; and
- Signs of an overbearing manner, which may surface in group work during training.

Some business-mentoring programmes have an added advantage over community-based programmes. Mentors from large or medium-sized companies, where there is a volunteering or community involvement policy, have an added incentive to ensure child protection, health and safety. They want to protect their employees and the reputation

of the company. Hence, there will often be an added layer of supervision which is undertaken by the company. This is especially likely to be the case in mentoring when company monitoring of emails is likely to be part of the policy.

Confidentiality

Mentoring is generally regarded as a confidential process involving a mentor and mentee having regular discussions. In general, both are briefed not to talk about the subject of their meetings to third parties. However, there are clear exceptions to this general rule. If mentees confide in their mentor about any form of abuse or if their mentor thinks that the mentee is being put at risk through their own behaviour or that of others, then they have a responsibility to inform the mentoring coordinator. This needs to be made clear in written procedures and during training.

E-mentoring

Mentoring via email can be through ordinary email addresses or through a dedicated website. Web-based e-mentoring generally has built-in monitoring procedures, typically involving a random selection of messages being sent to the co-ordinator to read. Also messages are usually archived and kept for a number of years; and so the provisions of the *Data Protection Act 1998* are relevant. Email based schemes usually rely on the school or LEA firewall to screen out any inappropriate language. Business mentors' email messages will also be scrutinised by the company's own ICT department as part of internal monitoring. Students and mentors are asked to save and back up messages and to use the 'history' facility so they have their own archive which can be used as evidence of what has transpired should a problem emerge.

Supervision

One of the important issues in mentoring is the question of supervision of meetings. The majority of school mentoring takes place in the school either during the school day or immediately at the end of the day. Sometimes a number of meetings take place at the same time in a large space such as the school library or hall. The mentoring coordinator can be around to supervise and also to meet and greet mentors. In other examples, students meet their mentors in an interview room or the mentoring coordinator's study. In this case, there is no direct supervision. Increasingly, interview rooms and pastoral centres in schools and colleges are selected because they are glazed, or have large 'sight' panes in the doors to give confidence to all parties. The fact that the meetings are being held at the school, however, does mean that health and safety issues are understood better and more easily managed.

Some programmes involve students in attending meetings at the mentor's workplace. This can have a number of advantages in developing self-confidence, employability skills and giving access to work placements. A risk assessment would not generally need to be carried out for every office-based set of meetings. Again, selection of appropriate locations may mean that provided workstations are reasonably spaced; open plan offices offer more security to all parties. Students will need to be given a

health and safety induction at the workplace at or before their first meeting. In many examples of these schemes students have access to computers and may be allowed to use reprographics such as photocopiers to aid homework. In this case the mentoring meetings may blur with a work-shadowing or work-experience arrangement. However, where these are activities that replicate those students undertake in schools' resource areas, coordinators should not be over-cautious in prohibiting them. An added risk is involved in travel to and from the workplace as with work experience and college placements.

Some schools allow meetings in community settings. This is usually after the mentoring has progressed for a year or more. Students can meet mentors in public places such as cinemas and restaurants for social or more informal meetings. In these cases parental permission has been sought and granted, and a relationship of trust and friendship has developed. Nevertheless, the practice carries inherently more risk than when meetings take place in school or company settings. Many schools, recognising the importance of social contacts, organise group activities when mentors and mentees can jointly engage, for example, in a ten-pin bowling tournament. However, examples of mentors taking their under-age charges to a public house or wine bar and purchasing alcohol are obvious causes for concern.

Support and supervision

Once the mentoring relationships have been established, it is important that there are some ongoing monitoring and support procedures. Both mentees and mentors can benefit from support. Discussions with mentees can be relatively informal, but should be regular to check that the mentoring is proceeding as planned and there are no boundary issues occurring. Mentors value contact with the school largely for feedback on whether there is any discernible impact. Supervision of business mentors is not usually appropriate, but a mentor meeting to discuss common issues is often a useful strategy to provide support and monitoring.

Case discussion

Case 1 – CRB delays

The school has been waiting for CRB checks and mentors are starting to pull out. The decision is taken to start the mentoring programme before the final outcome of the CRB checks is known.

Discussion

Delays between showing initial interest in becoming a mentor and actually mentoring a young person can be the result of various factors. These include CRB check delays. To have maximum impact business mentoring has to be at the most appropriate times of the school academic year. The temptation is there, therefore, to commence

mentoring without the results of the CRB checks. Whether or not this is a safe practice depends on the nature of the mentoring scheme.

Several schools have taken the decision that a meeting of one hour once every three weeks supervised by a teacher in the school hall does not constitute 'regular, unsupervised access' and so CRB checks are strictly speaking not essential. In order to ensure that the system is in fact safe, it would be appropriate to back this level of supervision with systematic discussions with students. Students would also need to be made aware of boundaries in their preparation.

In business mentoring, where meetings are to be held off-site on business premises, then it is important to delay the start of the programme. A large company programme where there are a number of students and mentors attending one workplace could commence without all checks being completed as access would be supervised. Students would need to be accompanied by their teacher and meetings could be held in a large meeting room or dining area where they could be adequately supervised.

Case 2 – Gender match

A male mentor on their application form has indicated that they would like a female mentee. Another mentor indicates that he would prefer to have a white mentee.

Discussion

School mentoring schemes should have written policies and procedures for the recruitment and selection of mentors. As we suggested above it is good practice to have some 'hurdles' that potential mentors have to get over beyond the simple CRB check. These include the identification of 'red flag' warning signs that indicate that there might be a problem. The two cases are potentially two such examples.

Typically the majority of mentors are women and yet the majority of potential mentees are young men. The most common match is, therefore, a female mentor with a male mentee. Male mentors are sufficiently scarce for most schools to pair them with male mentees. It would be unusual for a male mentor to specify that they wanted to have a female mentee. There may also be a young woman mentee who has expressed the choice for a male mentor. Both parties may have perfectly valid reasons for making this choice. However, the motivations of mentor and mentee need to be probed at an interview. There should also be higher levels of supervision for this pairing than for other pairs with a different gender combination.

The mentor who has expressed a wish to have a white mentee is asking the school to discriminate against non-white pupils. This is in breach of race relations legislation. Mentor recruitment literature should make it clear that the school is multi-ethnic and that mentors are sought who are keen to work with young people no matter what their ethnicity. In this case the mentor coordinator should interview the potential mentor and

explain this to them. They should also check out their attitudes towards minority-ethnic communities through questions, e.g. “How would you respond if you were paired with a black student of Nigerian heritage?”

Case 3 – Personal contact

It comes to the attention of the school that mentors and mentees are contacting each other by personal mobile and home email. Mentors and mentees are also sending website addresses and attachments via home computers.

Discussion

Clearly, it would be better if mentors and mentees had not exchanged mobile number and email addresses. It should be made clear to mentors and mentees that this is not permitted and that any infringement of this ground rule will lead to a termination of the mentoring relationship. This is on the grounds that the school has sought permission from parents for a mentoring programme which is supervised by the school. This kind of contact cannot easily be supervised by the school.

On the other hand, many mentoring relationships have flourished and there is often a wish on the part of both parties to continue contact during the school holidays. Mobile contact numbers are also the easiest way of informing each other if they are running late or cannot make a meeting. Many young people are used to using mobiles as a major means of communication. Some schools, therefore, have endorsed the exchange of mobile numbers and home emails provided that parents give their approval and agree to share responsibility for monitoring communication. Young people may not be keen for their parents to have password access to all their email correspondence. However, it is easy to produce an advice sheet to students and parents identifying free email accounts with good security and dedicate one to the mentoring. Ensuring this is a web-based account allows the parent to access the account discretely from anywhere they can use the internet.

Some e-mentoring schemes have banned the use of email attachments and the exchange of email addresses through the use of blocking facilities. However, this is to undermine a key use of e-mentoring is mentor support for student project work. Students can send drafts of their assignments to mentors for comment. Mentors can help students with their research by directing them to particular websites. There should not be a problem with the firewalls in place at school and in the business, which often screen out messages and websites containing certain words. This is more difficult when students and business people communicate via home emails during school holidays. Again it would be up to parents to grant permission and to undertake the monitoring function in the home.

Check your understanding

- Why is it a good idea to seek *Approved Provider Standard* or the *Excellence in Mentoring in Schools* quality standards?
- What are the main problems that occur in matching mentors and mentees?
- What insurance arrangements are recommended for business mentoring programmes?
- What special safety issues arise from e-mentoring?

Action

- Register for a national quality award in mentoring;
- Review procedures for screening, training and supervising mentors;
- Make sure that your matching strategy has a clear rationale and does not allow inappropriate matches;
- Make sure that student preparation includes boundary issues and ground rules to ensure safety; and
- Ensure that the mentoring coordinator has sufficient time to carry out all important functions.

9. Professional Development Placements

Introduction

Professional Development Placements (PDPs) are what were formerly known as teacher placements in industry. The name was changed to reflect the fact that such placements should be viewed as part of teachers' continuing professional development (CPD). There is national funding stream called Professional Development Placements routed through the LLSCs to local EBLOCs. This is to provide a programme of PDPs for teachers in each of the 47 LLSC areas of the country. PDPs can be viewed as part of work-related learning, as they form a key part of the staff development.

The objectives of PDPs, as with teacher placements in industry, can be personal and/or professional, and linked to curriculum and/or school development. A wide range of potential activities are covered by the term PDP. Generally, they are developed by the EBLOC or EBLO working in partnership with local schools and companies. For example, they can include customised placements for individuals or groups of teachers lasting from one to five days. These might be on the premises of one employer or involve visits to a number of employers. In the case of longer placements teachers may be undertaking the equivalent of pupil work experience by undertaking some work while on the placement. A second type of programme involves the equivalent of an in-service course held on employers' premises with business speakers and usually a tour of the business.

Some of these PDPs focus on developing management skills. For example, one consortium has developed a three-day *Leadership and Management* programme for teachers, deputy heads and heads in conjunction with a large company which is held at the company's training centre.

School and EBLO responsibilities

The school has a duty of care to its staff which extends to arrangements made or supported as part of the PDP programme. Similarly the EBLO has the same duty of care and may also be under a specific contract to a funding source (including the LLSC) to provide specific health and safety arrangements and advice. If the school makes arrangements for a teacher, or other member of staff to undertake a work-related placement, consideration should be given as to whether there is any additional risk to their health, safety or welfare. The question is how much effort needs to be put into a form of risk assessment when so much of it is common sense for an adult, especially one who by virtue of his or her employment in a school, has already been approved as

someone with good judgement. Clearly, employers have responsibilities in law to both temporary work-experience employees and visitors, including adequate insurance under the *Employers' Liability (Compulsory Insurance Act 1969)* and the provision of any personal protective equipment required.

It is helpful for schools and/or EBLOs to offer guidance to teachers going on placements in workplaces or visits to work organisations. Health and safety advice can be incorporated into such guidance, for example, information on hazard identification and control measures to reduce or eliminate the risk of incident or accident. Such guidance would be particularly useful for those situations where teaching staff make arrangements for themselves, for example, a science teacher visiting a teaching hospital pathology laboratory. Because of the wide range of work-related situations teachers may identify, guidelines should be generic and might include the following:

- Appropriate clothing and footwear and personal protective equipment obligations of the employer, for example, hard hats on visits to construction sites;
- Enquiries to establish that the employer has the usual package of employers' liability insurance that covers visitors and those on work experience;
- A code of conduct including confidentiality and 'trading-secrets' issues;
- Advice on travel and personal safety, for example, asking the employer for advice on transport away from a factory unit in the dark;
- Details of any Personal Accident Insurance the school or LEA may have which will pay out in circumstances where a claim of negligence cannot be made; and
- General advice on how to make a secure arrangement with an employer or organisation.

Case discussion

Case 1 – Site slip

A teacher visiting a construction site as part of a GCSE curriculum development project slips on wet ground and injures their back. The EBLO PDP coordinator had not undertaken any risk assessments of the site and did not see this as part of their role.

Discussion

Visits to construction sites are common and can pose significant risks. If a party of students were being taken to a site, then some risk assessment in conjunction with the person in charge of health and safety on the site would be necessary. However, in the case of a visiting teacher, the law already requires that each site has an identified,

competent health and safety manager who is responsible for all site visitors and workers. There are many situations where pupils at Key Stage 4 visit a number of sites as part of a work-experience programme, perhaps assisting a quantity surveyor or building inspector. It would be impracticable for each of these sites to be visited beforehand to carry out a risk-assessment and guidance on work-experience programmes focuses on risk assessing the competency of the surveyor or building inspector to supervise. It would be sensible to apply this principle to this situation.

However, if there were larger parties of teachers visiting the site on a regular basis, the EBLO does have a duty of care to those it organises activities for. It will be sensible for the PDP coordinator to visit the site and meet with the safety officer to discuss the practicalities. The outcome of this form of risk assessment can be added to the outline programme for the day.

Case 2 – Slip of the tongue

A teacher attended a strategy meeting as part of a management development placement at a company, which involved the discussion of commercially sensitive information. The teacher discusses the issue with the PDP coordinator who inadvertently mentions this when talking to the company coordinator.

Discussion

EBLOs, schools and other organisations involved in PDPs should construct generic guidance on confidentiality to their staff and teachers taking part, and the employers accommodating them. Wherever practically possible the same guidance should be seen by all the parties involved to give confidence that the issue is considered important. A simple code of conduct might read:

A condition of acceptance on this programme is that you keep confidential the commercial and personal confidences and trading practices of the organisations you visit.

Case 3 – Curriculum materials

Teachers on a curriculum development placement collect materials from the company's learning centre. Many of the materials have been purchased as part of management training packs from specialist companies. Activities have been photocopied without acknowledgement or permission and put in an education pack published by the EBLO for use in schools.

Discussion

Copyright law gives the creators of literary, dramatic, musical, artistic works, sound recordings, broadcasts, films and typographical arrangement of published editions rights to control the ways in which their material may be used. The rights cover: broadcast and public performance, copying, adapting, issuing, renting and lending copies to the public. In many cases, the creator will also have the right to be identified as the author and to object to distortions and mutilations of the work.

The EBLO in this example should not use the materials of others without their permission and this may even result in a claim for compensation. When drafting materials derived from PDPs for publication, it is important to check their provenance. Often materials have been photocopied from original sources and the source is not acknowledged. If a curriculum publication is planned, then teachers should be made aware of the importance of following the copyright laws. If companies are prepared to allow their own materials to be used for educational purposes (as they often are), then permission needs to be sought; along with the wording of any acknowledgements.

Check your understanding

- What are the kinds of risks that teachers might encounter during PDPs on employers' premises?
- Do EBLOs arranging PDPs have a responsibility to carry out risk assessments?

Action

- Check out the policy of your local EBLO towards risk assessments for teachers as part of their PDP programme;
- Obtain health-and-safety information appropriate to teachers and ensure that they are properly briefed before undertaking PDPs; and
- Before copying materials for classroom ensure that copyright is not being infringed and that permission has been sought from the company.

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