

SCHOOL INSPECTION GUIDE TO THE LAW

PART 2:

ASPECTS OF THE GOVERNANCE AND OPERATION OF SCHOOLS

Sources of legislation and guidance

This guide is on the Ofsted website for use by school inspectors. It does not represent a comprehensive guide to the law and should not be relied on as such. The law is constantly changing and legislation is updated regularly, so users are advised to always check the most up to date legislation.

The DfES publishes a *Guide to the Law for School Governors* which has fuller information than this brief reference document:

<http://www.governornet.co.uk/publishList.cfm?topicAreald=26>

Suggestions for corrections or revisions to any part of this guide should be sent to the Complaints and Legal Team, Institutional Inspections Frameworks Division, Ofsted.

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1. INFORMATION ABOUT THE SCHOOL

Information about school performance

1.1 General information about the school and specified information about school performance, including information about pupils' achievements in examinations and National Curriculum assessments, must be provided by headteachers to governing bodies and by governing bodies and proprietors of Academies to the Secretary of State.

Further information:

Education Act 1996 [Regulations made under s408 and s537 as amended by the Education Act 1997, the School Standards and Framework Act 1998 sch 30, the Learning and Skills Act 2000 and the Education Act 2002]

Education (School Performance Information) (England) Regulations 2001 [S.I. 2001/3446 (as amended) SI 2003/2135, SI 2004/214, SI 2005/51, SI 2005/2338]

See link:

<http://www.teachernet.gov.uk/management/atoz/p/performance/tables/index.cfm?code=legi>

School prospectuses and school profile

1.2 From 1 September 2005, schools were given more flexibility in what they could include in their prospectus. However, it must contain specific information about special needs and disabled pupils, including the plan prepared by the governing body under section 28D of the Disability Discrimination Act 1995 (see link below for further detail). The prospectus may also contain any other general information relating to the school which the school may decide to publish. The governors must also prepare and publish a school profile, the frequency and content of which may be subject to regulations. Governors are no longer required to write an annual report or hold an annual parents' meeting, but they should complete a school profile each year in the form of an online system with all the school's data provided for them.

Legislation:

EA 1996, s.317(5), as amended by the EA 2005

Education (School Information) (England) (Amendment) Regulations 2005

Disability discrimination act 1995 [PT IV]

EA 2005, s.104

Prospectus information is outlined on the *Teachernet* site, link:

<http://www.teachernet.gov.uk/management/atoz/p/prospectus/index.cfm?code=main>

Key documents providing more detailed guidance on the required content of school prospectuses include:

Guidance DfES/0269/2002 Governors' Annual Reports and School Prospectuses in Primary Schools

<http://www.teachernet.gov.uk/docbank/index.cfm?id=2170>

Guidance DfES/0270/2002 Governors' Annual Reports and School Prospectuses in Secondary Schools

<http://www.teachernet.gov.uk/docbank/index.cfm?id=2135>

School profiles information can be found at:

<http://www.teachernet.gov.uk/management/newrelationship/schoolprofile/>

2. ATTENDANCE

Attendance register

2.1 All Schools must keep an attendance register which must be called at the beginning of the morning session and once during the afternoon session and show whether each registered pupil at the school is present or absent. If a pupil of compulsory school age (5-16) is absent the register must indicate whether the absence was authorised, unauthorised or an approved educational activity (an approved educational activity is classed as present for data collection purposes). Schools will no longer be required to add their rates of absence in the school prospectus. They will be included in the School Profile automatically based on the information that is included in the School and College Achievement and Attainment Tables. They may keep attendance and admission registers on a computer, subject to certain safeguards relating to the correction and preservation of the registers. If kept on a computer, the attendance register should be printed at least once a month. At the end of each school year these sheets must be bound into annual volumes. These, like the manual registers, must be retained securely and for a period of three years from the last date of entry. Education Welfare Officers, also known as Education Social Workers, from the Local Authority (LA), should check attendance registers on a regular basis to ensure that they are completed in accordance with the school's policy and to identify patterns of absence not already notified. The governing body (which is legally responsible for the attendance register) must register with the Information Commissioner under the Data Protection Act 1998.

Legislation:

Education Act 1996 [Regulations made under s434 as amended by School Standards Framework Act 1998 sch.30, paragraph 111]
Data Protection Act 1998,
Data Protection Act 1998,
SI 1995/2089 Education (Pupil Registration) Regulations 1995 (as amended by:
Education (Pupil Registration) (Amendment) Regulations, 1997: SI 1997/2624;
Education (Pupil Registration) (Amendment) (England) Regulations, 2001: SI 2001/2802).DfES Circulars: 1/98 – LEA Behaviour Support Plans
http://www.dfes.gov.uk/publications/guidanceonthelaw/1_98/summary.htm

Guidance for Local Authorities and schools on behaviour and attendance – the guidance below replaces circulars 10/99 and 11/99 Social Inclusion: Pupil Support. 'Managing Behaviour and Attendance' can be found at:
<http://www.dfes.gov.uk/schoolattendance/publications/index.cfm>
Further information on school attendance can be found at
www.dfes.gov.uk/schoolattendance

Duty of parents

2.2 It is the duty of parents to ensure that their child receives suitable full-time education, either by regular attendance at school or otherwise, from the beginning of the term after he or she attains the age of 5. Compulsory school age ceases on the last Friday in June in the school year that the child reaches the age of 16.

Legislation:

Education Act 1996, s7
DfEE Circular 11/97: School Leaving Date for 16 Year Olds
SI 1997/1970 – The Education (School Leaving Date)

Prosecution/supervision orders/penalty notices

2.3. Parents may be prosecuted for failing in their duty to ensure that their child is properly educated. . Where a child is not on the roll at any school, the LA may serve a School Attendance Order to direct a parent to send their child to a specified school. Where a child is registered at school and is not attending, the LA may apply to the courts for an Education Supervision Order, which puts the child under the supervision of the LA. Where a child is the subject of a School Attendance Order he or she must attend the school or PRU named in that Order. Failure to ensure regular attendance may result in prosecution. As an alternative to prosecution a parent may be issued with a penalty notice.

Legislation:

Education Act 1996, s437-438 (as amended by School Standards Framework Act 1998 sch.30, paragraph 113) and s444, 444A, 444B and 444ZA (dealing with Penalty Notices and failure to secure attendance)

Children Act 1989, s36

SI 2004 No. 181); Education (Penalty Notices) (England) (Amendment)

Regulations, 2004: SI 2004 No. 920); and Education (Penalty Notices) (England) (Amendment) Regulations, 2005: SI 2005 No. 2029)

Guidance: 'Ensuring Regular School Attendance' can be found at

<http://www.dfes.gov.uk/schoolattendance/prosecutions/index.cfm>

'Guidance on Education-Related Parenting Contracts, Parenting Orders and Penalty Notices' can be found at:

<http://www.dfes.gov.uk/schoolattendance/otherinitiatives/parentingcontracts.cfm>

Further information on school attendance can be found at

www.dfes.gov.uk/schoolattendance

Parenting contracts

2.4 Parenting contracts are a supportive provision and enables formal agreements between parent and school or parent and LEA in which each side sets out the steps they will take to secure an improvement in the child's attendance and behaviour.

Some parents seek such help themselves, but others need a more directive approach and the anti-social behaviour bill enables this.

Legislation:

Antisocial behaviour act, 2003: section 19 (parenting contracts)

'Guidance on Education-Related Parenting Contracts, Parenting Orders and Penalty Notices' can be found at:

<http://www.dfes.gov.uk/schoolattendance/otherinitiatives/parentingcontracts.cfm>

Absence data

2.5. Schools are required to submit to the Department for Education and Skills absence data for authorised and unauthorised absence. This data is collected annually and termly. As from autumn 2007 this data will be collected through the school census.

SI 2001/3446 – The Education (School Performance Information)(England) Regulations 2001

School targets

2.6. All maintained schools are required to set an annual target to reduce absences from school. Schools must notify LEAs of their targets by the prescribed date.

SI 2005/58 – The Education (School Attendance Targets) (England) Regulations 2005

3. EXCLUSIONS

3.1 The headteacher is responsible for maintaining discipline, taking the governors' views into account. The headteacher is solely responsible for deciding that a pupil should be excluded, whether for a fixed period which should not exceed 45 school days in any school year, or permanently. The headteacher must inform a parent of an excluded pupil who is under 18 (or the pupil if aged 18 or over) of the exclusion and the reasons for it, and explain that they may make representations to the governors and the LA. In the case of exclusions of more than five days in aggregate in any one term, or consequential loss of opportunity to enter a public examination, the headteacher must inform the governors and the LA. Governors have the right to direct the headteacher to reinstate the pupil. In cases of permanent exclusions there is the right of formal appeal, arrangements for which must be made by the LA if the pupil has not been reinstated. Section 52(2) of the EA 2002 provides for the teacher in charge of a pupil referral unit to exclude a child from the unit on disciplinary grounds. The LA's duty to provide education remains. Where a child's behaviour makes permanent exclusion from a pupil referral unit necessary, the LA would need to consider whether to set in hand a formal assessment of special educational needs.

Legislation:

EA 2002, s52

SI 2002/3178 and SI 2002/3179, SI 2004/402,

Further guidance, including the revisions since January 2003 can be found at:

<http://www.teachernet.gov.uk/wholeschool/behaviour/exclusion/guidance/>

4. ASSESSMENT AND PUPIL RECORDS

Assessment

4.1 Schools are required to assess pupils in the core National Curriculum subjects at or near the end of each key stage for the purpose of measuring their progress when they move from one key stage to another and from one programme of National Curriculum study to another. Schools should have assessment arrangements in place for identifying pupils with special educational needs reflecting the guidance in the SEN Code of Practice.

EA 2002, s87

Special Educational Needs Code of Practice (DfES 2001)

<http://www.teachernet.gov.uk/docbank/index.cfm?id=3724>

Pupils' educational records

4.2 The Education (Pupil Information) (England) Regulations 2005, require governing bodies of maintained schools, other than nursery schools, and any special school not so maintained to ensure the keeping of a “curricular record” for each pupil, the disclosure on request of a pupil’s “educational record” to their parent, and the transfer of a pupil’s “educational record”, including their common transfer file, to their new school when they change schools.

The “curricular record” means a formal record of a pupil’s academic achievements, his/her other skills and abilities and progress in school. The governing body must ensure each pupil’s “curricular record” is updated at least once every school year. The “educational record” will include the curricular record but also other information about the pupil that may be kept by the school, such as details of behaviour and family background. Where a parent asks for access to their child’s educational record some information is exempt from disclosure to them, this is any information that the child him/herself could not lawfully be given under the Data Protection Act 1998 (DPA 1998) or to which s/he would have no right of access under that Act or by virtue of any order made under section 30(2) or section 38(1) of the Act. A pupil’s curricular record, excluding the results of any assessment of the pupil’s achievements, must be made available on request to any school or further education establishment which is considering the pupil for admission. Assessment results may be disclosed to another school only after a pupil has been admitted to that school.

SI 2005/1437- Education (Pupil Information) (England) Regulations 2005
Data Protection Act 1998

Further up to date information is available at:

<http://www.teachernet.gov.uk/management/atoz/p/pupilrecords/>

5. PARENTS

Home-school agreements

5.1 The Home- School- Agreement has been a legal requirement since September 1999. Each maintained school, city technology college or Academy shall adopt a Home-School Agreement and associated parental declaration. .

5.2 Home- School- Agreements are a useful means of promoting greater involvement of parents in their children's education and learning. Extensive research has shown that children whose parents are involved in their education do better at school and in later life.

5.3 Home- School- Agreements provide information about the agreed responsibilities of staff and parents and what is expected of pupils, arrived at through consultation involving schools and families. Home-School Agreements are about promoting partnerships, working between home and school through discussion. They are not contracts in the legal sense but statements of shared objectives agreed by the school community.

5.4 The White Paper, *Higher Standards for All: More Choice for Parents and Pupils*, commits to updating and relaunching guidance on Home-School-Agreements to ensure that all schools are aware of the potential benefits; and to provide more information about good practice. Guidance to schools will set a clear expectation for schools to ensure their Home-School –Agreements contain concrete commitments about how schools and parents can work together. These arrangements should be kept updated and practical.

Annual written reports to the parents: pupils' achievements

5.5 The headteacher of every maintained school must prepare annually a report in respect of every pupil and provide a copy to the parents of each pupil for their retention, and in the case of pupils who are aged 18 or over to the pupil. The report must contain the information prescribed in Schedule 1 to the Regulations referred to below.

Education (Pupil Information)(England) Regulation 2005. SI 2005/1437
Further information on Pupil Reports:
<http://www.teachernet.gov.uk/management/atoz/p/pupilreports/index.cfm?code=main>

6. COLLECTIVE WORSHIP

6.1 All maintained schools must provide a daily act of collective worship for all registered pupils, which must be broadly Christian in character. This should normally occur on the school premises with the exception of special occasions which may take place elsewhere if appropriate consultation has taken place with the headteacher. Special schools should secure daily collective worship so far as practicable. In community or foundation schools without a religious character, the arrangements for collective worship shall be made by the headteacher after consulting the governing body. In foundation schools with a religious character or voluntary schools, the arrangements for collective worship shall be made by the governing body after consulting with the headteacher. Parents have the right to withdraw their child from all or part of collective worship. In a school with a religious character, denominational collective worship is subject to a section 48, not section 5, inspection.

See Teachernet at: <http://www.teachernet.gov.uk/management/atoz/c/collectiveworship/>

SSFA 1998, s70-71 (as amended by Education Act 2002), sch.20

Designation of Schools Having a Religious Character (England) Order 1999 (SI 1999 No. 2432)

s 48 Education Act 2005 Inspection of religious education: England

6.2 The headteacher may apply to the Standing Advisory Council on Religious Education (SACRE) for a determination that the requirement for Christian collective worship should not apply in the case of any community or foundation school without a religious character or any class or description of pupils at any school.

SSFA 1998, sch.20(4)

Education Act 1996 s394

7. CURRICULUM

General curriculum requirements

7.1 The curriculum for a maintained school or maintained nursery school should be balanced and broadly based and:

- promote the spiritual, moral, cultural, mental and physical development of pupils at the school and of society
- prepare pupils at the school for the opportunities, responsibilities and experiences of later life.

EA 2002, s78

7.2 The governing body and headteacher of every maintained school or maintained nursery school must exercise their functions with a view to securing that the curriculum for the school satisfies these requirements.

EA 2002, s79

Basic curriculum

7.3 The basic curriculum for every maintained school in England must comprise a basic curriculum which includes:

- religious education in accordance with Schedule 19 of the SSFA 1998 except for pupils in nursery classes in primary schools
- the National Curriculum for pupils aged 3 but not over the compulsory school age
- sex education for pupils in secondary schools and secondary-age pupils in special schools.

7.4 The small size and rapidly changing roll and type of pupils in PRU's and hospital schools means that they are not subject to all the legislative requirements that apply to mainstream and special schools.

EA 2002, s80, s76
EA 1996 s19(2) and Schedule 1

The existing rules about withdrawal from religious education apply.

7.5 Section 88 and 89 of the 2002 Act require the headteacher to secure implementation of the National Curriculum, and the Local Authority and the governing body to exercise its functions with a view to securing implementation of the National Curriculum in schools and nursery schools.

Development work, experiments and exceptions

7.6 Section 90 of the EA 2002 sets out the Secretary of State's power to disapply the National Curriculum to enable development work or experiments. The Act also makes provision for modifications and disapplications for individual pupils in regulations made under sections 92 and 93.

The Foundation Stage

Definitions of nursery education and the Foundation Stage

7.7 **Nursery education** for the purposes of Part 6 of the EA 2002 (the curriculum in England) is defined as full-time or part-time education suitable for children who have not attained compulsory school age (whether provided at schools or elsewhere). Inspections under section 5 of the Education Act 2005 cover **nursery education** provided in a maintained school or maintained nursery school.
EA 2002, s77

7.8 The **Foundation Stage** begins at one of three points:

- the child's third birthday, if the child is provided with funded nursery education before the age of three
- when the child is first provided with funded nursery education, if this is at or after the age of three
- when the child is first provided with primary education, if not provided with funded nursery education.

7.9 The Foundation Stage ends at the end of the school year in which the child attains the age of five (the end of the reception year). It therefore covers reception classes and all nursery classes for children over three.
EA 2002, s81

The National Curriculum for the Foundation Stage

7.10 The National Curriculum for the Foundation Stage consists of the six areas of learning:

- personal, social and emotional development
- communication, language and literacy
- mathematical development
- knowledge and understanding of the world
- physical development
- creative development.

7.11 Schools must have regard in their planning to the guidance set out in the QCA/DfES document *Curriculum Guidance for the Foundation Stage*. The Foundation Stage curriculum is a distinct phase of education for children aged three to the end of the reception year of primary school. It is the first stage of the National Curriculum. The National Curriculum

assessment arrangements at the end of the Foundation Stage are through the Foundation Stage Profile.
EA 2002, s83

The Foundation Stage profile

7.12 Throughout the Foundation Stage, as part of the learning and teaching process, practitioners need to assess each child's development in relation to the stepping stones and early learning goals that form part of the Curriculum guidance for the Foundation Stage. These assessments are made on the basis of the practitioner's accumulating observations and knowledge of the child. By the end of the foundation stage, the Foundation Stage Profile provides a way of summing up that knowledge. At the end of the Foundation Stage, schools are required to:

- make assessments of each child's progress
- make assessments in relation to the Foundation Stage early learning goals
- report their assessments to parents, although there is no recommendation to report assessment scores to parents
- report their assessments to the LEA in the form of individual scores.

The use of the QCA scales booklet is not mandatory.

7.13 The Foundation Stage Profile covers:

- all six areas of learning
- each child's development and achievement, recorded on assessment scales derived from the stepping stones and early learning goals contained in the DfES/QCA document *Curriculum Guidance in the Foundation Stage*.

Key Stages 1 – 4

7.14 *Key Stage 1* starts at the beginning of the term after the end of the Foundation Stage. The end of Key Stage 1 and the beginnings and ends of other key stages are defined to coincide with usual year groups:

- **Key Stage 1** – Years 1 and 2
- **Key Stage 2** – Years 3 to 6
- **Key Stage 3** – Years 7 to 9
- **Key Stage 4** – Years 10 and 11

The National Curriculum for key stages 1, 2 and 3

7.15 The National Curriculum for Key Stages 1, 2 and 3 is made up of core and other foundation subjects, and includes attainment targets, programmes of study and assessment arrangements in each key stage.

7.16 The core subjects are:

- English
- mathematics

- science.

The other foundation subjects are:

- art and design
- citizenship (Key Stage 3 only)
- design and technology
- geography
- history
- information and communication technology
- a modern foreign language (Key Stage 3 only)
- music
- physical education.

The National Curriculum for Key Stage 4

7.17 The National Curriculum for Key Stage 4 also covers core and other foundation subjects, and includes attainment targets, programmes of study and assessment arrangements.

7.18 The core subjects in Key Stage 4 are:

- English
- mathematics
- science.

The other foundation subjects for Key Stage 4 are:

- citizenship
- information and communication technology
- physical education.

7.19 Since September 2004 schools have been required to provide a programme of work-related learning at KS4, including enterprise education.

7.20 Amended regulations under section 91 of the Education Act 2002, from September 2004, allow schools to disapply science for the purpose of allowing a pupil to participate in extended work-related learning. However, once the new slimmer science programme of study is introduced in September 2006 there will no longer be a need to disapply this subject and the disapplication regulations will be revoked. In all cases, pupils must continue to study all remaining National Curriculum subjects for Key Stage 4 and religious education, careers education and sex education.

Changes to the KS4 Curriculum

http://www.nc.uk.net/nc_resources/html/ks4_changes.shtml

Guidance has been issued by the DfES on Disapplication of the National

Curriculum and is referenced in Update 41.

EA 2002, s82, s84, s85, s86 – as amended by Education (Amendment of the Curriculum for Fourth Key Stage)(England) Order 2003

Meaning of secondary education

7.21 The definition of secondary education in section 2 of the EA 1996 includes education received partly at a school and partly at another institution or any other establishment, and references to secondary education in section 2 of the EA 1996 include vocational, social, physical and recreational training. Rights of entry for inspectors extend to non-school premises accordingly.

EA 2002, s177

The curriculum and assessment

7.22 The governing body and the headteacher of every maintained school or maintained nursery school must ensure that the National Curriculum is provided for all pupils and its assessment procedures are carried out.

EA 2002, s78, s79(3)

Key documents on the National Curriculum can be found at:

<http://www.teachernet.gov.uk/management/atoz/n/nationalcurriculum/index.cfm?code=keyd>

Taught time

7.23 The overall number of hours of taught time is not prescribed, although guidance is given. It is suggested that governing bodies of all maintained schools should take as a general guide to good practice:

- 21 hours for pupils aged 5 to 7
- 23.5 hours for pupils aged 8 to 11
- 24 hours for pupils aged 12 to 13
- 25 hours for pupils aged 14 to 16

The recommended taught time does not include time for collective worship, registration or breaks.

Info on Taught time: <http://www.teachernet.gov.uk/management/atoz/t/taughttime/>

DfES Circular 7/90 Management of school day

<http://www.teachernet.gov.uk/docbank/index.cfm?id=7843>

Religious education

7.24 All schools in the maintained sector, including any foundation or voluntary controlled school which does not have a religious character, must provide religious education (RE) in accordance with the locally agreed syllabus. Special schools must use the Agreed Syllabus, but only as far as they are able to. In all maintained schools, including foundation or voluntary and designated as having a religious character, the syllabus is the responsibility of the foundation governors according to the trust deed of the school or in the tenets of the faith from which it derives its religious character. The duty to provide religious education also applies to sixth forms in maintained schools. Parents have the right to withdraw their child from all or part of RE.

In October 2004 the first non-statutory national framework for teaching Religious Education was launched, see link: <http://www.qca.org.uk/7250.html>

SSFA 1998, s69-71, sch 19-20 s375 and 390 to 397 of, and Sch 31 Education Act 1996 DfES Circular: 1/94: Religious education and collective worship
<http://www.teachernet.gov.uk/docbank/index.cfm?id=8342>

Further information on RE: <http://www.teachernet.gov.uk/management/atoz/r/re/>

Sex education

7.25 In all maintained primary schools the governing body is responsible for deciding whether sex education should be included in the curriculum, for keeping a record of that decision and of their policy with regard to the content and organisation of the relevant part of the curriculum, and for making those documents available.

7.26 All maintained secondary schools are required to make provision for sex education for all pupils; they must have a written statement of their policy and make it available. Any sex education which schools provide – whether or not it is required as part of the National Curriculum – should be given in such a manner as to encourage pupils to have due regard to moral considerations and the value of family life.

7.27 The requirements applying to special schools and PRUs are as those applying to pupils of the same ages in mainstream schools.

7.28 Parents have the right to withdraw pupils from part or all of that sex education which is outside the National Curriculum.

EA 1996 [s403-405 as amended by SSFA 1998 sch.30, paragraph 102 and section 148 of the LSA 2000]

EA 2002, s80

DfES Guidance Sex and Relationship Guidance (DFEE 0116/2000)
<http://www.teachernet.gov.uk/docbank/index.cfm?id=4815>

Careers education and guidance, and work experience

7.29 All registered pupils attending any of the following:

- a) community, foundation or voluntary schools
- b) community special or foundation special schools (other than those established in hospitals)
- c) city technology colleges, academies
- d) pupil referral units

must be provided with a programme of careers education between the ages of 12 and 16. Whilst it is not a legal requirement, it is recommended that secondary schools should include information in the school prospectus about their provision for careers education, guidance and work experience.

EA 1997 [s43 as amended by SSFA 1998 sch.30 paragraph 217(a) and LSA 2000 and EA 2002] and the Education(Extension of Careers Education) (England) Regulations 2003 – Statutory Instrument 2003 No .2645

DfES Circular: 5/98: *Careers Education and Guidance in Schools: Provision for Years 9-11* http://www.dfes.gov.uk/publications/guidanceonthelaw/5_98/summary.htm

Learning Outcomes from Careers Education and Guidance (Qualifications and Curriculum Authority) http://www.qca.org.uk/14-19/11-16-schools/index_s1-3-0-careers-edu-guide.htm

Careers Education and Guidance in England: A national framework 11-19 (DfES/0163/2003) ISBN 1 84185 89/9.

<http://www.cegnet.co.uk/viewpage.asp?s=xfO28s1j74TW80r0kS89l7L43NC0vx39t48h20Df&PageID=704>

Drugs education

7.30 Schools should provide health education, including education about drug misuse. Schools are advised to have clear policies and procedures in place for dealing with drug-related incidents on school premises and for working with other services concerned with young people to offer appropriate advice and support.

Drugs: Guidance for Schools (Ref: DfES/092/2004):

<http://publications.teachernet.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DfES+0092+2004&>

Sporting achievements

7.31 Although not a legal requirement, it is suggested that schools include a statement in the school prospectus on the school's sporting aims, whether these aims have been met, and provision of sport in terms of particular activities, facilities (e.g. playing fields) and time allocated within and outside the curriculum, any relevant staff expertise or qualifications, links with local sports clubs, and any notable sporting achievements.

Prospectus info:

Guidance DfES/0269/2002 Governors' Annual Reports and School Prospectuses in Primary Schools

Guidance DfES/0270/2002 Governors' Annual Reports and School Prospectuses in Secondary Schools

See link: <http://www.teachernet.gov.uk/management/atoz/p/prospectus/index.cfm?code=keyd>

Disapplication or modification of the National Curriculum

7.32 All pupils in maintained schools should follow the National Curriculum to the maximum extent possible but its provisions may be disapplied or modified in relation to pupils with statements of special educational needs.

7.33 Schools are able to apply for a direction from the Secretary of State for Education and Skills to use disapplication to develop the curriculum for the whole school, or the curriculum for a key stage, a year group, or a group of pupils. Regulations may be made under sections 93 and 94 of the EA 2002 enabling the headteacher of a maintained school to direct that the provisions of the National Curriculum shall not apply, or shall apply with modifications, to a pupil without a statement up to a maximum period of six months. The headteacher may also revoke or vary a direction, but may not extend its operative period. Prescribed information must be given by the headteacher to governors, the LEA and the pupil's parents.

7.34 Regulations set out the circumstances in which individual disapplications of up to two National Curriculum subjects may be made in Key Stage 4. Briefly, these are where the pupil is participating in an extended work-related programme or would, in the opinion of the headteacher, benefit educationally from their disapplication.

Further guidance: Disapplication of the National Curriculum (Revised)

(DfES/0076/2003): <http://www.dfes.gov.uk/disapply/>

EA 2002, s76-118

The Education (National Curriculum) (Exceptions at Key Stage 4) (England) Regulations 2003

For other related documents, see link:

<http://www.teachernet.gov.uk/management/atoz/d/disapplyingthenationalcurriculum/index.cfm?code=keyd>

Provision of higher education

7.35 Since September 2005, schools are able to offer limited courses of higher education that fall within paragraph 1(g) or 1(h) of Schedule 6 to the Education Reform Act 1988. These are vocational or professional courses at level 4, and

modules of first degree courses or HNDs, but not courses resulting in the award of a full first degree or HND. The school must ensure that the provision of higher education does not interfere to a significant extent with a pupil's other education.
EA2002, s28 as amended by EA 2005, s105

8. INCLUSION AND ANTI-DISCRIMINATION LEGISLATION

Equal opportunities

8.1 Schools have a general duty to ensure that facilities for education are provided without sexual or racial discrimination. Schools must pay full regard to pupils' age, gender, ethnic background, aptitude and any special educational needs.

8.2 Schools are required to prepare a report containing a description of their arrangements for admitting disabled pupils; details of the steps they have taken to prevent pupils with disabilities from being treated less favourably than other pupils; and details of facilities provided to assist access (both physically, e.g. to buildings, and to education provision, e.g. to the curriculum) to the school by pupils with disabilities.

8.3 The Special Educational Needs and Disability Act 2001 delivers a strengthened right to a mainstream education for children with special educational needs. The Act also seeks to enable more pupils who have special educational needs to be included successfully within mainstream education. It amends the Disability Discrimination Act 1995 and delivers comprehensible enforceable civil rights for disabled pupils and students. The Act ensures that access to school education (as well as further and higher education) is covered by the Disability Discrimination Act 1995. It also covers the admission of disabled pupils to schools, and the education and associated services to pupils. Schools and Local Authorities have new duties to prevent discrimination, which will help facilitate inclusion.

Sex Discrimination Act 1975, s22-28, as amended.
Race Relations Act 1976, s17-19, 35, as amended.
EA 1996 s312-336
Disability Discrimination Act 1995, part IV
Special Educational Needs and Disability Act 2001
See link: <http://www.teachernet.gov.uk/management/atoz/s/senpolicy/index.cfm?code=legi>

8.4. Schools are encouraged to keep a written statement of their policy on equal opportunities. There should be no discrimination against any pupil on the grounds of race, sex or disability in providing teaching or allocating pupils to teaching groups; excluding pupils; applying standards of behaviour, dress and appearance; giving careers guidance and work experience; allocating resources and providing other facilities and services.

Disability Discrimination Act 1995
Race Relations Act 1976
Sex Discrimination Act 1975
Education (Special Educational Needs) (Information) Regulations 1999 (SI 1999 No. 2506)

Other related documents:

The Education (Special Educational Needs) (England) (Consolidation) Regulations 2001 (SI 2001 No. 3455)

The Education (Special Educational Needs) (Provision of Information by Local Education Authorities) (England) Regulations 2001 (SI 2001 No. 2218)

Discrimination

8.5 Governing bodies must not discriminate on grounds of race or sex in the terms under which staff are appointed. All staff must be given opportunities for promotion, training or other benefits. Governing bodies who employ 20 or more staff must not discriminate against current or prospective staff with disabilities, without good reason, because of their disability. This applies to all employment matters (including recruitment, training, promotion and dismissal). Employers will also have a duty to provide any necessary reasonable adjustments (i.e. to their employment arrangements or to the physical features of their premises) for disabled employees and applicants.

Race Relations Act 1976 [pt II, s4-9]

Sex Discrimination Act 1975 [pt II, s6-10]

Equal Pay Act 1970

Disability Discrimination Act 1995 [pt II, s4-12]

For more information see: *Sexual Orientation and the Workplace: a guide for employers and employees*, available from the acas website: <http://www.acas.org.uk/>

The Employers' Organisation website: <http://www.lg-employers.gov.uk/diversity/index.html>

Race equality

8.6 Schools have a general duty to have due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity and good relations between persons of different racial groups. They also have specific duties to prepare and maintain a written race equality policy. A race equality policy may be a separate document or form part of an overall equal opportunities policy, in which case it should comprise an easily identifiable section.

Schools must also have in place arrangements to:

- a) assess the impact of all their policies, including their race equality policy, on pupils, staff and parents of different racial groups including, in particular, the impact on attainment levels of such pupils
- b) monitor, by reference to their impact on such pupils, staff and parents, the operation of all their policies including, in particular, their impact on the attainment levels of such pupils.

8.7 They are also required to take steps as are reasonably practicable to publish annually the results of its monitoring.

Race Relations Act 1976 [s71, as amended by the Race Relations (Amendment) Act 2000]

Race Relations Act 1976 (Statutory Duties) Order 2001

CRE: Statutory Code of Practice on the Duty to Promote Race Equality, CRE, May 2002

Special education provision

8.8 All schools must pay regard to the Special Educational Needs Code of Practice. The Code (current version issued in 2001) sets out detailed guidance on all aspects of providing for special educational needs in mainstream and special schools. All schools, Local Authorities (LAs) and other providers must take into account of the Code. In addition, the SEN and Disability Act 2001 strengthened the right to a mainstream education for pupils with special educational needs.

8.9 The LA retains overall responsibility for SEN provision and is responsible for formally assessing children with special educational needs in their own area who may need a statement of SEN. Where a child has been assessed as needing special education provision determined by a statement, the LA must make and maintain a statement of special educational needs of that child, and review it annually. Most children with special educational needs will not be disabled within the meaning of the Disability Discrimination Act 1995. However, a significant proportion of those who are disabled will have special educational needs. As part of the review process, the LA must keep reviewing what they provide for teaching children with special educational needs. LAs have a general duty to educate a child in ordinary schools, as long as this is consistent with the parents' wishes and the child receives the appropriate special educational provision, and the child's inclusion would be compatible with the efficient education of other children.

EA 1996 [s323-329A as amended by SSFA 1998 sch.30, Special Educational Needs and Disability Act 2001 and the Education Act 2002]

Special Educational Needs Code of Practice (DfES 581/2001) link:

<http://www.teachernet.gov.uk/docbank/index.cfm?id=3724>

Disability Discrimination Act 1995 [pt IV]

An extensive list of SEN related documents can be accessed on Teachernet at:

<http://www.teachernet.gov.uk/wholeschool/sen/publications/index.cfm?section=2&CFID=6428212&CFTOKEN=22328c3-6649e768-5e46-4273-9abd-95dc2f89ff66>

Special educational needs

8.10 The governing body with the headteacher must have regard to the SEN Code of Practice. In addition, they must determine the school's SEN policy, publish

the policy in the school prospectus and report each year to parents about the success of the policy. The governing body must oversee SEN and set up appropriate staffing and funding arrangements. They must also designate a 'responsible person', either a member of the school staff or a governor, to ensure that where a pupil has special educational needs, those needs are made known to all who are likely to teach that pupil. In the absence of a specific designation of a responsible person by governors the headteacher assumes this role. All schools are required to contribute to the annual review of pupils who have a statement of special educational needs.

EA 1996 [s313 and s317] Education (Special Educational Needs) (Information) (England) Regulations 1999 [S.I. 1999/2506] (as amended)

Special Educational Needs Code of Practice (DfES 581/2001) link:

<http://www.teachernet.gov.uk/docbank/index.cfm?id=3724>

An extensive list of SEN related documents can be accessed on Teachernet at:

<http://www.teachernet.gov.uk/wholeschool/sen/publications/index.cfm?section=2&CFID=6428212&CFTOKEN=22328c3-6649e768-5e46-4273-9abd-95dc2f89ff66>

Disabled Pupils

8.11 Since 2002, three sets of duties have combined to provide the statutory framework that underpins equality of opportunity for disabled pupils in accessing school education:

- the disability discrimination duties in Part 4 of the Disability Discrimination Act 2005 (DDA)
- the planning duties in Part 4 of the DDA;
- the Special Educational Needs (SEN) duties in the Education Act 1996.

8.12 Together the three sets of duties are designed to ensure access to education and the inclusion of disabled pupils in every aspect of school life. They focus on the removal of barriers to the progress of disabled pupils and underpin what many schools are already putting into practice. Each set of duties provides an important element:

- the disability discrimination duties provide protection from discrimination;
- the planning duties provide for improvements to increase access, over time;
- the SEN framework provides auxiliary aids and services

8.13 The education provisions of the DDA took effect in schools from 1 September 2002; these provisions do **not** (unless the special school has been approved under s.342 of the Education Act 1996) apply to special schools. This Act places a duty on schools to prepare a report containing information about disabled pupils. The Act builds upon the Education Act 1996 (incorporating the Education Act 1993) which aims to provide all pupils with special educational needs, including disabled pupils, with an education and school place appropriate for their needs. Schools must continue to publish their special educational needs policy.

8.14 Governing bodies must not discriminate against a disabled person in their admission arrangements and must take steps to ensure that disabled pupils are not substantially disadvantaged.

8.15 Schools are required to have accessibility plans covering a three-year period. This is a plan for increasing the extent to which disabled pupils can participate in the school's curriculum and improving the physical environment of the school to increase the extent to which such pupils can take advantage of the education and other services offered by the school. Schools must provide the information in the plan in a format suitable to cover any disability.

Disability Discrimination Act 1995 [as amended by the SEN and Disability Act 2001]
Pt IV Education Act 1996
Disability Discrimination (Prescribed Periods for Accessibility Strategy and Plans for Schools) (England) Regulations 2002 [S.I. 2002/1981]

Disability Equality

8.16 This Act inserts further sections into the 1995 Act, under which it is unlawful for public bodies, including schools, to discriminate against a disabled person in carrying out their functions. Schools will have a new general Disability Equality Duty to have due regard to the need: to eliminate unlawful discrimination; to eliminate harassment of disabled persons; to promote equality of opportunity between disabled persons and other persons; to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons; to promote positive attitudes towards disabled persons; and to encourage participation by disabled persons in public life. The Secretary of State may impose further, specific duties in support of the general duty; these are likely to require schools to produce a Disability Equality Scheme (the specific duties, like the general duty, are not expected to take effect until December 2006, but the Disability Rights Commission have already consulted on a draft Code of Practice).

Disability Discrimination Act 2005
Draft Code of Practice, Disability Rights Commission, 2005
Link: <http://www.drc-gb.org/thelaw/practice.asp>

Looked-after children

8.17 Admissions authorities for maintained schools may be required by regulations to ensure that looked after children are to be offered admission in preference to other children.
EA 2005, s.106

9. CHILD PROTECTION

9.1 The governing body must make arrangements for ensuring that their functions relating to the conduct of the school are exercised with a view to safeguarding and promoting the welfare of children who are pupils at the school. They must also have regard to any guidance issued by the Secretary of State in considering what arrangements they need to make to safeguard and promote the welfare of children. The governing body should ensure that the school operates safe recruitment practices and that appropriate checks are carried out on all new staff who will work with children; that there are procedures in place for handling allegations against staff; that staff receive appropriate training in child protection, and that it reviews its child protection policies and procedures annually. Parents, in effect, give schools the authority to act in *loco parentis*. Schools should take independent action to deal with emergencies. They have a general duty to act independently in respect of suspected abuse at home.

EA 2002, s175(2)
Children Act 1989, s2(9), 3(5)

Staff checks

9.2 It is mandatory for employers to make the List 99 check for employees who work with children. The DfES strongly recommends that the following should apply for enhanced disclosure.

- Anyone who is appointed to a post in which normal duties involve regularly caring for, training, supervising or being in sole charge of persons aged under 18.
- Anyone taking up a new appointment with a different employer or is re-appointed or re-elected as a governor, has had a break in service of three months or more or has moved to a post of significantly greater responsibility for children.
- Agencies should obtain Enhanced Disclosure in respect of all supply teachers they recruit before a person is placed in a school and headteachers may ask supply teachers to produce their Enhanced Disclosure.
- Existing staff should not be asked to apply for fresh Disclosure unless the employer, school, further education institution or LA has grounds for concern about their suitability to work with children.

The DfES has also said that it will be amending regulations to make these checks compulsory, and has written out to clarify the implications and proposed some strengthened interim arrangements from January 2006. (see link below)

9.3 Schools are recommended to have designated teachers and procedures to notify social services departments, the NSPCC and police where they are concerned about a pupil's safety. The designated teacher should be properly trained and be aware of the role of local Area Child Protection Committees (ACPC).

All staff should be aware of the school's procedures, for example, for dealing with suspected child abuse, which must follow the ACPC guidance.

Safeguarding Children – Revised arrangements (letter from Secretary of State, Jan-06)
<http://www.teachernet.gov.uk/doc/9514/Safeguarding%20children%20-%20revised%20arrangements.pdf>

Preventing unsuitable people from working with children and young persons in the education service
<http://www.teachernet.gov.uk/doc/2172/ChildProtect.rtf>

Working Together to Safeguard Children (DoH, Home Office and DfES 1999)
<http://www.dh.gov.uk/assetRoot/04/07/58/24/04075824.pdf>

Safeguarding Children in Education:
<http://publications.teachernet.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DfES+0027+2004&>

Safeguarding Children in Education: Safer Recruitment and Selection in Education Settings: <http://www.teachernet.gov.uk/docbank/index.cfm?id=8592>

Safeguarding Children in Education: Dealing with Allegations of Abuse against Teachers and Other Staff: <http://www.teachernet.gov.uk/docbank/index.cfm?id=9350>

Vetting and Barring Scheme
<http://www.everychildmatters.gov.uk/socialcare/safeguarding/vettingandbarring/>

Review of the List 99 decision making process and policy implications
<http://www.dfes.gov.uk/hottopics/docs/reviewoflist99.pdf>

10. ACCOMMODATION

10.1 Standards of provision are laid down for school premises for all age groups, including nursery classes.

SI 1999/2 Education (School Premises) Regulations 1999

See link:

<http://www.teachernet.gov.uk/management/resourcesfinanceandbuilding/schoolbuildings/sbregulatoryinformation/sbpremises/>

11. HEALTH AND SAFETY

11.1 Schools must take reasonable steps to make sure that buildings, equipment and materials are safe and do not put health at risk. The 1974 Health and Safety at Work etc Act 1974 places overall responsibility for health and safety with the employer. Who this is varies with the type of school. The employer must have a health and safety policy and arrangements in place to implement it. There is a statutory responsibility to identify hazards and manage the risks as they affect employees and pupils. The head teacher is responsible, on a day-to-day basis, for implementing the policy.

For further detail, see *Health and Safety: Responsibility and Powers*
DfES/0803/2001

link:http://www.teachernet.gov.uk/_doc/4017/Responsibilites%20and%20Powers.doc

The Teachernet's section on health safety is also very helpful, see link:
<http://www.teachernet.gov.uk/management/atoz/h/healthandsafety/>

Legislation:

Health and Safety at Work etc Act 1974

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 [S.I. 1995/3163]

The Ionising Radiations Regulations 1999 [S.I. 1999/3232]

The Electricity at Work Regulations 1989 (as amended) [S.I. 1989/635]

The Noise at Work Regulations 1989 (as amended) [S.I. 1989/1790]

Environmental Protection Act 1990, s89, s91 and s92

The Management of Health and Safety at Work Regulations 1999 [S.I. 1999/3242]

The Workplace (Health, Safety and Welfare) Regulations 1992 (as amended) [S.I. 1992/3004]

The Personal Protective Equipment at Work Regulations 1992 (as amended) [S.I. 1992/2966]

The Provision and Use of Work Equipment Regulations 1998 [S.I. 1998/2306]

The Manual Handling Operations Regulations 1992 (as amended) [S.I. 1992/2793]

The Health and Safety (Display Screen Equipment) Regulations 1992 (as amended) [S.I. 1992/2792]

The Education (School Premises) Regulations 1999 [S.I. 1999/2]

EA 1996, s542 (as amended by SSFA 1998 sch.30 paragraph 158)

The Control of Lead at Work Regulations 2002 [S.I. 2002/2676]

The Confined Spaces Regulations 1997 [S.I. 1997/1713]

The Chemicals (Hazard Information and Packaging for Supply) Regulations 2002 [S.I. 2002/1689]

Further guidance:

Can be obtained from:

Health and safety of pupils on educational visits (DfES 1998 Ref. HSPV2)

www.teachernet.gov.uk/visits

Managing Ionising Radiations and Radioactive Substances L93 (August 2001)

12. SCHOOL SECURITY

12.1 Specific responsibility for security in schools is not set down in legislation. Security is a health and safety issue and whoever has responsibility for health and safety needs to consider security issues.

Guidance:

<http://www.teachernet.gov.uk/wholeschool/healthandsafety/schoolsecurity/>

Health and Safety: Responsibility and Powers DfES/0803/2001

link:http://www.teachernet.gov.uk/_doc/4017/Responsibilites%20and%20Powers.doc

Improving Security in Schools (ISBN 0-11-270916-8)

School Security Dealing with Troublemakers (Joint Home Office and DfES

publication Ref: SSDWT)

Can You See What They See? (DfES 0045/2001)

13. ROLES OF GOVERNORS AND HEADTEACHER

13.1 Each maintained school shall have a governing body, which shall be a body corporate constituted in accordance with regulations. Governors have a general responsibility for the effective management of the school within the framework of national legislation as well as any guidance issued by SofS and, in the case of LA maintained schools, of LA policies. Detailed decisions about the day-to-day running of the school are the responsibility of the headteacher. For every maintained school there shall be an instrument (known as the instrument of government) which determines the constitution of the governing body and other matters relating to the school. The division of responsibilities in each school will be detailed in this document.

Legislation: EA 2002 s19-21

School Governance (Constitution) (England) Regulations 2003, SI2003/348 as amended by School Governance (Constitution)(England)(Amendment) Regulations 2003 SI No. 1916

School Governance (Procedures) (England) Regulations 2003 [SI No. 1377]

Further Guidance: *A Guide to the Law for School Governors*

<http://www.governornet.co.uk/publishArticle.cfm?CFID=12624860&CFTOKEN=99742825&topicAreaId=26&contentId=894&pageStart=1&sortOrder=c.title>

13.2 PRUs (“Pupil Referral Units”) are legally both a type of school and education otherwise than at school and do not use the terms ‘headteacher’ or ‘governing body’. The headteacher is referred to as the ‘teacher in charge’ and a ‘Management Committee’ will then act in place of a governing body and have a role in the PRU’s admissions, attendance, discipline, curriculum and post-inspection action. Regulations may provide for an LA to appoint a Management Committee to discharge the LA’s functions.

13.3 A single management committee may cover two or more PRUs to ensure better co-ordination of education of children out of school. Members of a management committee might include:

- headteachers from maintained schools within the LA
- LA officers with knowledge or experience of working with young people with behavioural difficulties
- education and social services departments
- local health authority
- the teacher in charge of the PRU
- other PRU staff
- Special Educational Needs Coordinators
- parents of pupils currently or previously attending the PRU
- school governors
- representatives of voluntary or charitable organisations
- representatives from reputable local businesses and colleges or universities
- Youth Service

- Careers Service
- local FE college
- police
- elected Members of the Authority.

13.4 The teacher in charge of a PRU must provide any reports which the management committee or LA asks for, and must report to the LA at least once a year.

EA 1996, Schedule 1
 Education (Pupil Referral Units)(Application of Enactments)(England) Regulations 2005
 DfES website: <http://www.dfes.gov.uk/publications/guidanceonthelaw/11-99/referral.htm>

Duties of the governing body

13.5 Broadly, the duties of a governor are:

- establishing, with the headteacher, the aims and policies of the school and how the standards can be improved
- deciding the conduct of the school
- helping to draw up the school development plan (with the headteacher and staff)
- advising on spending the school budget
- ensuring that the National Curriculum subjects and religious education are taught
- selecting the headteacher and appointing, promoting, supporting and disciplining other staff
- acting as a link between the school and the community
- drawing up the post-inspection action plan and monitoring how the plan is put into practice.

13.6 The DfES publications *A Guide to the Law for School Governors* are essential reading for inspectors. These guides enumerate governors' duties and responsibilities, including the school policies they are required to prepare. The guides are available from the DfES' school governors' website: <http://www.governornet.co.uk/publishArticle.cfm?CFID=12624860&CFTOKEN=99742825&topicAreaId=26&contentId=894&pageStart=1&sortOrder=c.title>

Complaints

13.7 There are formal procedures for dealing with some complaints about the school, for example complaints about admissions, charging and about the curriculum. Parents or any interested person can complain to the Secretary of State if he or she believes that a governing body is failing to carry out its duties or acting 'unreasonably' in using its powers. Although not a legal requirement, it is suggested that the school prospectus contain information on the procedures for

handling complaints about the curriculum. The governing body must establish procedures for dealing with other complaints about the school and must publicize these established procedures. In establishing these procedures the governing body must have regard to any published guidance from the DfES.

EA 2002, s29
EA 1996 [s409(1-3) as amended by SSFA 1998 sch.30 paragraph 107 and EA 2002]

Federations of schools

13.8 The Education Act 2002 provides for groups of (two or more) schools to be federated under a single governing body. The conditions and procedures for federation in England are set out in the Regulations below.

EA 2002, s24, s25
School Governance (Federations)(England) Regulations 2004, SI 2004/2042
School Governance (Constitution, Federations and New Schools) (England) (Amendment) Regulations 2005, SI 2005/1730

Further info: Federation and collaboration

<http://www.teachernet.gov.uk/management/fallingschoolrolls/joiningup/federationcollaboration/>

and: <http://www.standards.dfes.gov.uk/federations/>

Inspection

13.9 The appropriate authority for a school (usually the governing body) has responsibilities to inform the parents of registered pupils at the school, and such other persons as are prescribed, when they have been notified of a section 5 inspection of the time when the inspection is to take place, and after the inspection to arrange for the distribution of the report. The governors and staff must give inspectors access to relevant documents, lessons and school activities.

EA 2005, Part One Education (School Inspection) (England) Regulations 2005, SI 2005/2038

Delegated budgets

13.10 LAs must maintain a scheme under which all maintained schools have delegated budgets. The LA has power to add as many additional governors as they see fit, to replace a governing body with an interim executive board with the Secretary of State's approval in exceptional circumstances, and to withdraw the

delegated budget of a school. These intervention powers are exercisable where a school has been placed in special measures, has been judged to have serious weaknesses, or has failed to respond satisfactorily to a formal warning notice. The relevant Church of England or Roman Catholic diocese or other body which appoints foundation governors may, in the case of a voluntary aided school, appoint a matching number of additional governors as an LA where the LA has exercised its power to do so.

SSFA 1998, s15, s17, s16A (as inserted by s.57 of the Education act 2002)
Financing of Maintained Schools (England) Regulations 2004 SI 2004/3130
DfES Circular: 2/94

Charging

13.11 Charging for admission and education in all maintained schools is prohibited. There are some exceptions: for example, individual tuition or pupils in a group of up to four to play a musical instrument (if tuition is not an essential part of the National Curriculum or a public examination syllabus being followed by a pupil); board and lodging on a residential visit, and education provided wholly or mainly out of school hours. Governing bodies must draw up a charging policy in relation to those charges.

EA 1996 s450-462 as amended by SSFA 1998 Sch.30, paragraphs 120-123 and the EA 2002
DfES Circular: 2/89 (currently unavailable on Teachernet, though still referred to)
See link for further details:
<http://www.teachernet.gov.uk/management/atoz/c/chargingforactivities/index.cfm?code=main>

14. EXTENDED SCHOOLS

The power of the governing body to provide community facilities

14.1 The governing body of a maintained school has the power to provide community facilities for pupils at the school, their families or people who work or live in the locality of the school. Section 28 EA 2002 sets out limits to these powers. The governing body should not do anything that would conflict with their instrument of governance, relevant regulations or general responsibility to conduct the school with a view to providing a high standard of educational achievement. It must also work within the local authority's financial scheme that relates to the school. Before exercising this power, governors must consult with staff of the school, parents and the LEA.

14.2 One consequence of this is that income and expenditure related to community functions should be accounted for in the school's accounts.
EA 2002, s27, s28

15. TEACHERS AND OTHER STAFF

Staffing

15.1 Every school should employ staff suitable and sufficient in number for the purpose of securing the provision of education appropriate to the ages, abilities, aptitudes and needs of the pupils.

15.2 The governors, advised by the headteacher, determine how many and which staff should work at the school, provided in the case of LA maintained schools they can satisfy the LA that these are fit people to appoint.

15.3 The power for the Secretary of State to bar or restrict employment is contained in section 142 of the Education Act 2002. The Education (Prohibition From Teaching Or Working With Children) Regulations 2003 [amended by Education (Prohibition From Teaching Or Working With Children) (amendment) Regulations 2004 SI 2004/1493] set out the requirements for reporting individuals to the Secretary of State who cease to work as a teacher or in a role that involves regular contact with children in or for a Local Authority, a school, or a further education institution because they are considered unsuitable to work with children, or as a result of misconduct, or because of a medical condition that raises a possibility of risk to the safety or welfare of children, regardless of whether the person's services are terminated or they leave voluntarily.

15.4 The regulations require reports to be made by 'relevant employers' and 'agents'. A 'relevant employer' is a Local Authority (including contractors carrying out education functions on behalf of a LA), a school, or a FE institution. An 'agent' is any organisation that arranges for people to provide their services to a LA, a school, or a FE institution as a teacher, or in any other role that involves regular contact with children (persons under 18 years of age). That includes employment agencies, for example teacher supply agencies, contractors who provide services (e.g. catering) in schools or FE institutions, voluntary organisations that provide people to work with children, and institutions of initial teacher training in respect of student teachers.

EA 2002, s142
Teaching and Higher Education Act 1998, s.15A(A)
DfES List 99
Education (Prohibition from Teaching or Working with Children) Regulations 2003/1184]

Performance management

15.5 Performance management Regulations provide for the performance review of school teachers, including headteachers, and make provision for the procedures for performance review. The Regulations require the governing body of a school to secure that the performance of all teachers at the school is reviewed annually. Schoolteachers are therefore entitled to expect that their performance will be

regularly assessed and that they will have a proper opportunity for professional discussion with their team leader about their work and their further professional development. Schools are also required to develop and implement a performance management policy giving effect to the appraisal Regulations.

15.6 The headteacher is responsible for implementing a school's performance management policy and ensuring that performance management reviews take place. The LEA has a duty to ensure that the performance of teachers is regularly reviewed in accordance with the Regulations. The governing body has the strategic responsibility for establishing the school's performance management policy and ensuring that the performance of teachers is regularly reviewed. They are also responsible for monitoring the performance management process and reviewing the school's performance management policy. With the support of an external adviser they are also responsible for reviewing the headteacher's performance.

Education (School Teacher Appraisal)(England) Regulations 2001, SI 2001/2855

Key performance management documents can be found at:

<http://www.teachernet.gov.uk/management/payandperformance/performancemanagement/keydocuments/>

Disciplinary rules: grievances

15.7 The governing body must establish written procedures for dealing with disciplinary and capability cases involving members of staff, including the headteacher, and for considering grievances raised by members of staff as well as hearing subsequent appeals against decisions taken.

Guide to Good Governance', DfES,

<http://www.governor.net.co.uk/publishArticle.cfm?topicAreaId=4&contentId=885&pageStart=11&sortOrder=c.publishDate>

Teachers' pay and conditions, including workforce reform

15.8 Governors must review the pay of all teachers annually, keeping within the statutory provisions set out in the annual School Teachers' Pay and Conditions Document. The National Agreement on Workforce Remodelling introduced a range of duties on governing bodies, including: the way in which support staff are deployed; the work/life balance of teachers, including the headteacher; ensuring that all teachers have a reasonable allocation of time in support of their leadership and management responsibilities; and access for all staff to suitable training. This is supported by the Specified Work and Registration Regulations, which specify work that may be carried out by qualified teachers who are registered with the GTC, and the conditions under which persons who are not qualified teachers may carry out specified work. New Regulations require the governing body of maintained schools, or LEAs in respect of schools without a delegated budget or a PRU, to review the staffing structures by the end of 2005, and any resulting changes to schools' staffing arrangements to be implemented in full by the end of 2008. The statutory basis for teachers pay and conditions of service in the maintained sector

in England and Wales is contained in the School teachers' pay and conditions document 2005. From Sep -5 all teachers are guaranteed 10% time away from the classroom for Planning, Preparation and Assessment.

Link:

http://www.teachernet.gov.uk/management/payandperformance/pay/2005/School_Teachers_Pay_and_Conditions_Document_2005/

Also: Education (Review of Staffing Structure) (England) Regulations 2005 (SI 2005 No. 1032)

Education (Specified Work and Registration) (England) Regulations 2003 (SI 2003 No. 1032)

Further up to date information on pay and conditions can be found on Teachernet, see link: <http://www.teachernet.gov.uk/management/atoz/t/teacherspay/> and: <http://www.teachernet.gov.uk/management/payandperformance/pay/>