



11. HEALTH, SAFETY AND WELFARE AT WORK

1. Introduction and Policy Statement

For the purposes of compliance with Health and Safety Law, a school is an employer and has a general duty of care under the Health and Safety at Work etc Act 1974 ("the 1974 Act") in respect of the health, safety and welfare of its employees.

As an employer and as an occupier with control of premises, the school will also have responsibilities in respect of its pupils, visitors, contractors and anyone else who may be affected by school activities under the 1974 Act and the Occupiers Liability Acts of 1957 and 1984.

The law requires every employer with five or more employees to prepare and, as often as may be appropriate, revise a written statement of its general policy with respect to the health and safety at work of its employees and the organisation and arrangements for carrying out that policy.

It should also bring that statement (and any revision to it) to the notice of all its employees.

For schools, the policy should:

- Reflect the commitment of the governors to improving Health and Safety;
- Identify a structure for implementation, i.e. who is responsible for what, when, how, to what effect and with what resources;
- Describe how the policy will be implemented including the standards to be met, procedures to be followed, lines of communication and the provision of relevant information, instruction, training and supervision;
- Describe the arrangements for informing the employees about the policy and their responsibilities within it;
- Specify how Health and Safety performance will be monitored and reviewed, i.e. by having health and safety committee meetings and receiving regular health and safety reports from heads of department;
- Commit the governors to reviewing and developing the policy; and be signed and dated.

2. Responsibility

Under the 1974 Act, the ultimate accountability for compliance with Health and Safety rests with the governing body. However, in practice functions are normally delegated to both the Head and the Head of finance and estate's. Usually, the Head will assume overall responsibility for the health and safety matters affecting

academic staff whereas the Head of finance and estate's will assume responsibility for matters affecting non-academic staff. There will be grey areas which will need special attention and clear lines of communication between the Head and the Head of finance and estate's to ensure that relevant statutory requirements are being complied with and that no places, people or school activities are overlooked.

Schools may have health and safety committees which the Head will be required to attend and often act as the Chairperson.

3. Scope of this guidance

Although the 1974 Act sets out the employer's basic statutory duty of care, reference should also be made to the numerous specific regulations made under the 1974 Act. Some of these are considered in section 5 of this guidance. Most regulations are accompanied by either Guidance Notes on their implementation or Approved Codes of Practice issued for or on behalf of the Health and Safety Executive ("HSE"). The HSE website (www.hse.gov.uk) contains direct access to such documentation both by topic and industry sector.

This document is designed to highlight only the most important areas of Health and Safety of which a School should be aware. It is not intended to be, and is not, a substitute for referring to specific regulations when determining the nature and extent of the legal duty owed and the steps necessary to ensure compliance.

4. Scope of Duties

Although the 1974 Act applies to employees, i.e. those who have a contract of employment, it also extends to those people "not in the school employment but who may be affected by the school's undertaking" The 1974 Act imposes on the employer an obligation to ensure, so far as reasonably practicable, the Health and Safety of non-employees including pupils, contractors and visitors (eg parents attending school plays, speech days, school inspectors, contract workers, etc). Whilst there is no obligation to provide for the welfare of these persons, it is prudent to consider pupils and visitors together with employees when determining the provision of equipment and facilities, for example, under the First Aid Regulations.

The Head, who has delegated responsibility for the day-to-day management of the school, has a particular role in ensuring the governing body's Health and Safety policies and procedures are implemented.

In addition, the 1974 Act places duties on those who have control of premises. Governing bodies are obliged to take all reasonable measures to ensure that the school premises are safe and without risks to the health and safety of staff, pupils or visitors etc.

5. Employer's Duties

(a) Risk assessments

Under the Management of Health and Safety at Work Regulations 1999 (the "Management Regulations"), a school must undertake a general examination of all its work activities to identify hazards (anything with the potential to cause harm to persons or property) and measure and evaluate risks (the likelihood of harm and the resulting consequences) to members of staff (not forgetting temporary staff, cleaners, young, inexperienced staff, those with disabilities) and others (pupils, contractors, suppliers, visitors, members of the public) who may be affected by the many and varied activities of the school.

Having identified each hazard, a risk assessment should be made to identify, prioritise and implement the control measures necessary to remove the hazard altogether or, if this is not possible, to reduce the risk to the level required by law.

When identifying control measures for a particular hazard, it is important to check whether that hazard is regulated by general legislation, specific regulations, an Approved Code of Practice or guidance on good practice, eg a British Standard or Department for Education guidance.

A record should be kept of each risk assessment including:

- The significant hazards identified;
- The existing control measures and their effectiveness;
- The number and types of people at risk from the hazard (including those at special risk), the possible consequence of exposure to the hazard and the likelihood of those consequences materialising;
- The new control measures to be implemented.

Risk assessments should be reviewed and revised at regular intervals and when there are grounds to believe they may no longer be valid, eg after an accident, where the procedure for undertaking a task has changed, using different equipment etc. The risk assessments will help in determining such things as training requirements and/or the need to convey information to employees.

In addition to general assessment required by the Management Regulations, specific assessments are required in respect of the following:

- Females of child bearing age whose work involves a risk to the health and safety of a new or expectant mother, or to that of her baby from any process, working condition or physical, biological or chemical agents (Regulation 16 of the Management Regulations)
- Young persons (under 18) (Regulation 19 of the Management Regulations)
- Night workers (Working Time Regulations 1998) Health and Safety and Welfare at Work
- Personal protective equipment (Personal Protective Equipment at Work Regulations 1992)
- Display screen equipment (Health and Safety (Display Screen Equipment Regulations) 1992)
- Manual handling operations (Manual Handling Operations Regulations 1992)
- Substances hazardous to health (Control of Substances Hazardous to Health Regulations 2002)
- Noise at work (Control of Noise at Work Regulations 2005)
- Vibration at work (Control of Vibration at Work Regulations 2005)
- Lead at Work (Control of Lead at Work Regulations 2002)
- Asbestos at work (Control of Asbestos Regulations 2012)
- Ionising radiation (Ionising Radiations Regulations 1999)
- Fire Safety (Regulatory Reform (Fire Safety) Order 2005)

The law does not require you to duplicate risk assessments. If you have already assessed the risks and precautions which must be taken to comply with one of the regulations, you do not need to repeat the assessment again to comply with a different regulation.

(b) Consultation

Where there are Safety Representatives appointed by recognised Trade Unions the Safety Representatives and Safety Committees Regulations 1977 will apply. They should be consulted in good time in respect of all health and safety matters provided the school has been informed in writing of the appointment of each Safety Representative and the group of employees that s/he represents.

The Health and Safety (Consultation with Employees) Regulations 1996 require schools to consult with members of staff who are not already covered by representatives appointed by recognised trade unions on health and safety matters. Consultation may be direct with individual employees or indirect through "Representatives of Employee Safety" ("RES").

Members of staff should be consulted in good time regarding:

- The introduction of any measure which may substantially affect their health and safety at work;
- Arrangements for appointing a competent person to help the school comply with health and safety requirements;
- The information to be given to employees on the risks to their health and safety and the preventive and protective measure adopted by the school;
- The planning and organising of any health and safety training;
- The health and safety consequences of the introduction of new technology.

The functions of RES are to make representations to the school on potential hazards, dangerous occurrences and general matters affecting health and safety and to represent the group of staff s/he has been elected to represent on all matters of health and safety.

RES should be provided with such information as is necessary for them to participate fully and effectively in the consultation process, have access to information contained in records kept under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 ("RIDDOR 2013") and receive training, time off and facilities to enable them to carry out their functions fully.

Consultation may take the form of regular health and safety committee meetings attended by RES where the Head commonly acts as Chairperson.

(c) Information, Instruction, Training and Supervision

Staff must be provided with comprehensible, comprehensive and relevant information on:

- Risks to their Health and Safety;
- Preventive and protective measures adopted to control those risks;
- Emergency procedures to be followed in the event of serious and imminent danger, including, but not limited to, fire procedures;
- The people nominated to implement fire and other procedures;
- Their general duties under the 1974 Act.

Where there are employees from other organisations working on school premises, their employer should be provided with comprehensible information on risks to those employees' health and safety arising out of or in connection with the school's activities and measures taken by the school to comply with the law. The

Management Regulations specify the need for all employers to communicate, cooperate and co-ordinate on health and safety matters.

Training is an important method of converting information into safe working procedures. Adequate instruction, training and supervision are needed for each work type as part of the control measures necessary to reduce or minimise risk of injury.

Specific regulations will often assist in determining the type of training and / or instruction needed in relation to particular hazards, eg under the Manual Handling Operations Regulations 1992.

(d) Reporting and recording accidents

The school must notify the HSE by the quickest practicable means without delay (normally by telephone) and complete and submit Form F2508 within 10 days where:

- Any person (including a pupil) dies as a result of an accident arising out of or in connection with work;
- Any person at work suffers a specified injury as a result of an accident arising out of or in connection with work;

Specified injuries are: fractures (other than to a finger, thumb or toe); loss or reduction of sight; amputation; crush injuries which cause injury to the head or torso damaging the brain or internal organs; burns which cover more than 10% of the body or cause damage to eyes, vital organs or respiratory system; scalping requiring hospital treatment; loss of consciousness caused by head injury or asphyxia; injury from working in an enclosed space which leads to hypothermia or heat induced illness or requires resuscitation or admittance to hospital for more than 24 hours

- Any person not at work (including a pupil) who, as a result of a work related accident, suffers an injury and is taken from the site of the accident to a hospital for treatment;
- There is a dangerous occurrence (listed in Schedule 2 of RIDDOR 2013)

Where a member of staff is incapacitated for more than 7 consecutive days (excluding the day of the accident but including any days which would not have been normal working days) because of an injury resulting from an accident arising out of or in connection with work other than one reportable above, the school should complete and submit Form F2508 within 15 days.

Certain occupational diseases are reportable to the enforcing authority on Form F2508A.

Fatalities and specified injuries can be reported to the Incident Contact Centre, without the need to fill in a form, on 0345 3009923 (Monday to Friday), 0830 to 1700.

All incidents can be reported online.

Details of injuries, dangerous occurrences and occupational diseases should be kept in an accident report book, which complies with the Social Security (Claims and Payments) Regulations 1979. The accident book must contain the following information:

- The full name, address and occupation of the injured person;
- The date and time the accident/incident occurred;
- The place where the accident/incident occurred;
- The cause and nature of the injury;
- The name, address and occupation of the person entering the details (if not the injured person).

The accident book must be kept for at least 3 years from the date of the last injury, but it is sensible to keep them indefinitely in a safe place. In any event they should never be destroyed or disposed of without the prior consent of the school's insurers.

It is important to investigate all accidents/incidents to:

- Discover the root causes so as to prevent a recurrence;
- Apply disciplinary procedures, where appropriate, for employees or pupils where health and safety rules have been breached;
- Brief lawyers for the purpose of obtaining legal advice or to conduct or aid in litigation. **For serious incidents, schools can contact ISBA for advice on the provision of legal support.**

One person should be nominated for reporting. They should take charge of the accident book and decide whether or not reporting of the accident/incident to the enforcing authority is required.

(e) First Aid

Schools are required to provide suitable First Aid facilities and equipment and should undertake a risk assessment to determine the type of arrangements necessary to enable First Aid to be rendered to a casualty. When determining the equipment, facilities and personnel arrangements required, the following should be considered:

- The number of staff (and pupils) present at any one time;
- The distribution of staff;
- The number of first aiders and the selection of such persons in terms of reliability, communication skills, aptitude to learn, ability to cope with stressful situations and the ability to leave the work they are doing at the time;
- Numbers and locations of first aid boxes;
- Whether there are inexperienced members of staff with disabilities or specific health problems;
- The size, nature (split sites / levels) and location of the school premises to which members of staff have access in the course of their employment;
- Whether there are travelling, remote or lone working staff;
- Arrangements for off-site activities;
- Arrangements for out of hours school activities, such as parents evenings;
- Arrangements where letting / hiring to third parties takes place;
- Parts of the school premises with different levels of risk;
- The types of activity undertaken;
- The proximity of professional medical and emergency services;
- Any unusual or specific hazards (eg substances, tools, machinery);

- Accident statistics which can highlight the common types of injuries, locations, times etc and help in the tailoring of first aid provision.

Some schools will have a School Nurse and/or a visiting Doctor who can provide guidance in this area. The Department for Education "Guidance on First Aid for Schools" provides specific advice.

Schools should consider the availability of First Aiders in areas of higher risk, which may include workshops, laboratories, swimming pools, kitchens, and sports activities. Guidance on minimum legal requirements covering recruitment, selection and training for First Aiders and appointed persons, their responsibilities and accountabilities, the need for a First Aid room and the contents of First Aid boxes can be found in the Health and Safety (First Aid) Regulations 1981.

A First Aider is someone who has done training appropriate to the level identified in the needs assessment and may be:

- First Aid at Work (FAW), 3 day course;
- Emergency First Aid at Work (EFAW), one day course;
- Some other First Aid training appropriate to the particular circumstances of the workplace.

Typically a First Aider will hold a First Aid certificate (valid for 3 years) issued by a competent training provider such as the St. John Ambulance or Red Cross. The HSE recommend that First Aiders receive annual refresher training. Practising Medical Officers and most nurses are regarded as First Aiders for the purposes of the regulations.

It is the employer's responsibility to make sure that the statutory requirements for the provision of First Aiders is met, that appropriate training has been provided and that correct procedures are followed. The employer should be satisfied that training has given staff sufficient understanding, confidence and expertise. The employer should also ensure that there is an "appointed person" on the school premises in case a First Aider is absent in order to take charge of first aid arrangements, including looking after the equipment and calling the emergency services.

First aid cover is usually not difficult to provide in term time but schools should take care to provide adequate cover during holidays when maintenance staff, cleaners and ground staff will be at work whilst school nurses and others may be away from the school premises.

Risk assessments will also help to determine the number of First Aid boxes that are required and their location. It should be remembered that travelling bags should be provided for ground staff, tractor drivers and those on school transport. The HSE guidance on the regulations (L74) stress that the employer's assessment should take account of the balance of off and on site activity.

In addition, the Childcare Act 2006 imposes a specific legal requirement relating to first aid through the Statutory Framework for the Early Years Foundation Stage (effective September 2014) publication from the Department for Education. It states that "at least one person who has a current paediatric first aid certificate must be on the premises and available at all times when children are present, and must accompany

children on outings." The requirements apply to all schools and registered early years providers (with children up to the age of five) and they must have regard for the publication in order to comply with the specific welfare requirements under the Early Years Foundation Stage (Welfare Requirements) Regulations 2012.

(f) Fire and Emergencies

The Regulatory Reform (Fire Safety) Order 2005 requires employers to carry out a fire risk assessment to examine and control the likelihood of a fire starting, and the consequences of a fire if one were to start. This includes identifying fire hazards and the people at risk, and implementing control measures to remove or reduce the risk. The employer should record the findings and inform staff and safety representatives. The risk assessment should be reviewed and revised as and when there are changes in work activities or the use of the building.

The employer is known as the "responsible person" and is required to take general fire safety precautions to ensure the health and safety of staff and others, such as pupils/students. These precautions include:

- Assessing the risk of fire, paying particular attention to those who may be especially vulnerable, eg children, those with mobility challenges;
- Ensuring that there are effective means of escape;
- Making sure the workplace is well-equipped with appropriate fire-fighting equipment /detectors / alarms;
- Adopting appropriate fire-fighting measures;
- Nominating an adequate number of suitably trained and competent persons to implement these measures.

Further guidance on risk assessments and other fire safety issues in school premises is provided by the Department for Communities and Local Government document: "Fire Safety Risk Assessment - Educational Premises".

Governors and the Head is responsible for ensuring that adequate systems are in place and that checks are carried out to reduce the risk of fire. Effective fire safety management in educational establishments will include the following:

- Ensuring that all members of staff are given adequate training and information, especially during the induction process;
- Fire evacuation drills should take place at least once a term, at different times of the day, with records kept of the drills and action taken to prevent the recurrence of any issues identified;
- Clear fire instructions should be displayed in all buildings; escape routes should be clearly signposted and kept free from obstruction;
- Fire doors should be clearly marked and be kept clear on both sides at all times;
- Fire-fighting equipment, alarms and smoke detectors must be checked regularly by a trained person;
- Adequate arrangements must be made for storing, using and disposing of flammable /combustible materials;
- Electrical equipment (portable and fixed systems) should be checked and serviced regularly;
- Evacuation procedures should include arrangements for those with disabilities;
- Appropriate measures for when buildings are in use outside of normal hours;
- Adequate provision for visitors, contractors and others who may use the premises from time to time;
- Access for emergency services vehicles on site.

(g) Hazardous Substances

The Control of Substances Hazardous to Health Regulations 2002 ("COSHH") establish that schools must have in place appropriate measures to ensure that the risks to the health and safety of pupils (as well as staff) from exposure to hazardous substances are minimised.

A hazardous substance is one which has, by law, to be labelled with a hazard symbol such as 'very toxic', 'toxic', 'harmful', 'irritant', or 'corrosive'. It therefore includes many chemical substances such as paints and cleaning materials, as well as wood dust and welding fumes.

Employers are required to:

- Undertake a risk assessment of hazardous substances as defined by the regulations. This includes substances in use, those which are generated by a process or those which occur naturally;
- Prevent, reduce and /or adequately control exposure to these hazards;
- Implement proper use of controls, of which the use of personal protective equipment is the last resort;
- Maintain, examine and test control measures;
- Keep records;
- Provide health surveillance for staff as necessary;
- Have emergency procedures in place for dealing with accidents and incidents;
- Provide information, instruction and training regarding hazardous substances to employees.

Asbestos, lead, ionising radiation (eg radon), highly flammable liquids and liquefied petroleum gases are covered by special statutory regulations and are outside the scope of COSHH. Within a school, attention should be given to the following areas:

- Science;
- Design and technology;
- Art;
- Kitchens;
- Maintenance and ground activities;
- Swimming pools;
- Contractors.

The requirement to provide information, instruction and training not only applies to qualified teaching staff but also those such as cleaners and laboratory assistants etc who may be required to work with, or in the vicinity of, hazardous substances. All schools should have comprehensive COSHH assessments and associated work instructions. A useful source of guidance and training is CLEAPSS (formerly standing for the Consortium of Local Education Authorities for the Provision of Science Services).

(h) School Security

Governing bodies have a general responsibility under the 1974 Act and Management Regulations to ensure that schools are a safe and secure environment for staff, pupils and visitors. The Report by the Working Group

on School Security set up by the Secretary of State for Education in 1995 and the Cullen Report on the Dunblane Tragedy emphasises the importance of schools having security strategies and the need to regularly monitor security measures.

Schools are required to have adequate security arrangements for the grounds and buildings under the Education (Independent School Standards) (England) Regulations 2010 and generic risk assessments should consider security arrangements as part of its control measures to eliminate or reduce risks to safety.

(i) Electricity

The Electricity at Work Regulations 1989 require an assessment be undertaken to define the foreseeable risks of work activities which use or may be affected by electricity and to consider whether any works on or near electrical systems involve risk of danger and/or personal injury.

Electrical equipment, both fixed and portable, should be the subject of tests and examinations. The frequency and extent of these will depend upon the type of use for the equipment, the likelihood of faults or damage arising, the safety consequences of faults or damage, the regularity of use, the condition of the equipment and the method of storage. Portable electrical appliances include hand tools, kettles, televisions, lamps, photocopiers, PCs and fax machines. Although there is no legal duty to carry out annual testing of these appliances, there is guidance on recommended inspections and testing for various types of equipment (see Maintaining Portable Electrical Equipment in Offices and other Low Risk environments - IND (G) 160 L and Maintaining Portable Electrical Equipment - HSG107)

Electrical work should only be undertaken by a person both competent for the task and authorised by the school.

It is strongly recommended that any person authorised to carry out electrical work is registered by the National Inspection Council for Electrical Installation Contracting ("NICEIC") or Electrical Contractors Association ("ECA") as these organisations maintain minimum standards for workmanship and safety.

Records should be kept of inspections and testing detailing what tests were carried out, the date, the tester's name, the date of the next scheduled test and any modifications or repairs made.

(j) Manual Handling

For the purposes of Health and Safety, manual handling is an operation which requires human (as opposed to mechanical) effort to move or hold a load and includes lifting, putting down, pushing, pulling, carrying or moving. A "load" could be a person, an animal or an object.

The Manual Handling Operations Regulations 1992 require that all manual handling operations be "avoided" so far as reasonably practicable. To the extent that it is not possible to eliminate the operation then a risk assessment needs to be carried out to identify the risks of injury and the steps necessary to reduce those risks so far as reasonably practicable.

A record of the significant findings of the assessment should be made which demonstrates that the assessment has considered the task, the load in question, the working environment and the individual capabilities of staff.

Many employees may find themselves involved in moving and handling loads, either in the classroom or during physical activities such as PE or design and technology. However, employees are generally trained to tackle such tasks and should not involve pupils/students in lifting or moving large or heavy items, such as desks, cabinets, stage or sports equipment.

Staff who undertake manual handling operations involving a risk of injury should be provided with sufficient information on the risks of them being injured, the weight of each load and the heaviest side of each load whose centre of gravity is not positioned centrally.

(k) Stress

Occupational stress should be treated in the same way as ill-health due to physical hazards in the workplace. Its root causes should be identified, assessed and then either eliminated or, if that is not possible, properly and effectively controlled.

Employers have a common law duty to ensure that the health of their staff is not placed at risk through excessive and sustained levels of stress arising from the way work is allocated and arranged, the way people deal and interact with each other and the day to day demands placed on staff.

The HSE has issued guidance to employers on factors to look out for which may indicate occupational stress in the document 'Managing the causes of work-related stress: A step-by-step approach using the Management Standards' (HSG 218).

Occupational stress should be taken seriously. Taking steps to reduce stress can result in better health amongst members of staff, reduced sickness absence, increased performance and output, better relationships with colleagues, reduced staff turnover and improved morale.

Schools should at the same time as considering stress, also think about the hours staff work and the requirements of the Working Time Regulations 1998 (an amendment in 2002 implements certain provisions on the protection of young people at work and restricts the working time of those aged between 15 and 18 who are over compulsory school age, referred to as 'young workers').

(l) Off-Site Visits

Most school visits take place without incident or injury to staff or pupils, but off-site visits should still form part of the school's overall health and safety policy. Good planning and safety procedures can reduce the number of accidents/incidents and the severity of those that do happen.

For independent schools, the Head (and/or Board of Governors) owe a duty: "to take reasonable care to avoid acts or omissions likely to cause foreseeable injury (mental or physical)". This duty is owed to those members of staff who accompany pupils on off-site visits and to pupils themselves.

Members of staff accompanying pupils on a visit have ultimate responsibility for their safety and are deemed to be acting "in loco parentis". In those circumstances, they are held to the same standard of care as a prudent

parent (in a school, not home life, context). Occasionally this duty can temporarily be entrusted to others, eg an instructor at an activity centre where the activities involved are controlled by those instructors / experts. However, for the rest of the visit, responsibility will rest with the accompanying members of staff.

Off-site visits will vary in the degree of physical and psychological risk posed to members of staff and pupils depending on the nature of the activity and the numbers involved. Attending an activity centre will require greater planning than visiting a museum or exhibition centre. Residential and overseas visits require the most planning of all.

Before embarking on any visit, it is important to undertake a risk assessment with the objective of identifying risks and either eliminating or reducing these to an acceptable level. This process should continue up to and for the duration of the visit. The purpose of risk assessments are:

- (i) To ensure the potential safety problems are properly understood;
- (ii) Check whether existing control measures (including emergency plans) are adequate;
- (iii) Reduce risks to an acceptable level and identify what further control measures need to be implemented.

Risk is defined as the likelihood or probability that a hazard (source of harm) will give rise to an unplanned event (accident) with a harmful outcome (consequence). To assess risks, it is necessary to firstly identify the hazards, then estimate the risk from each hazard (the likelihood of harm occurring coupled with the severity if it does) and then decide if the risk is tolerable. Key issues to consider as part of this process include:

Hazard identification:

- The nature of the activity (adventurous or passive);
- The duration of the visit and the standard/provision of any accommodation;
- The degree of participation (spectator or direct involvement);
- The location (a pre-trip visit to the site may be appropriate, and where this is not possible then making further enquires, taking references, checking accreditations etc);
- Any special needs (including medical) of pupils;
- Any times where supervision is only remote;
- Who is being exposed to the hazards and how often, considering the age, competence, fitness and temperament of the group;
- Seasonal conditions, weather conditions and time of day; and
- Previous use of venues and the need to periodically reassess.

Control Measures:

- The competence of school supervisory staff (training, experience, knowledge, qualifications);
- The ratio of school staff to pupils;
- The competence of centre staff and the ratio of those staff to students;
- The quality and suitability of available equipment;
- The provision of first aid and medical facilities;
- Emergency arrangements and their effectiveness, including fire/evacuation procedures;
- Road safety and transport;
- Insurance arrangements;
- Codes of conduct expected of pupils.

The school must show that they have taken reasonable steps in applying the risk assessment process and individual teachers must demonstrate that their responses to an incident were within the range of the reasonable responses of a parent.

The Education (Independent Schools Standards) (England) Regulations 2010 require schools to have regard to the Department for Education's "Health and Safety; advice on legal duties and powers for local authorities, school leaders, school staff and governing bodies", February 2014 (which replaced the earlier guidance "Health and Safety of Pupils on Educational Visits"). The Department for Education also recommends the HSE's policy statement, "School trips and outdoor learning activities: Tackling the health and safety myths".

All participants on a trip must be fully and correctly insured. It is important to ensure that the insurance includes cover for possible personal liability ("third party insurance") for all adults who are responsible for students on the trip. Any existing school policy should be checked carefully and with attention given to any exclusions to the policy.

Examples of cover that may be needed on a trip are:

- Employer's liability;
- Public liability;
- Personal accident cover for teachers, adults, students;
- Cost of medical treatment;
- Specialised risk activities;
- Damage to or loss of hired equipment;
- Programmed and non-programmed activities;
- Emergency expenses;
- Cancellation and/or delay;
- Loss of baggage and personal property;
- Legal fees in costs of recovery;
- Bankruptcy of provider.

(m) Minibus Safety

An effective system for managing minibus safety is essential. Schools are advised to undertake a risk assessment before journeys to identify hazards, the likely severity of injuries to people or property, existing control measures and new ones that may be needed. Legal requirements must also be complied with. Every minibus must be correctly licensed, have valid tax, be adequately insured, adequately maintained and have a valid MOT certificate where applicable. Entitlements to drive a minibus are not easy to summarise. It is recommended that reference is made to guidance entitled "Driving School Minibuses - Advice for Schools and Local Authorities" which has been produced jointly by the Department for Education, the Department for Transport and the Association of Chief Police Officers in August 2013.

The guidance explains when a school employee with a car driving licence may drive a minibus and outlines when a permit issued under section 19 Transport Act 1985 may be needed.

Schools should regularly assess their drivers and provide necessary training. They are also advised to check the Disclosure and Barring Service to assess whether a person is suitable for the job. Schools are also under a duty to ensure that the driver is medically fit, is not under the influence of drugs or alcohol, refrains from using a mobile phone when driving and is not too tired to drive.

When the purpose of the trip is to transport three or more children, minibuses registered before 1 October 2001 must have a forward facing seat for each child and be fitted with a three point seat belt or lap belt. Minibuses registered on or after October 2001 must have forward-facing or rearward facing seats for all passengers (whether adult or child) and must have three point seat belts.

Where possible, passengers who use wheelchairs should be transferred to a fixed seat and the wheelchair securely stored during the journey. If this is not appropriate then the wheelchair should be securely and symmetrically fixed to the vehicle in a forward facing or rearward facing position (but never sideways). The passenger must be secured with seatbelts attached to the vehicle tracking, the wheelchair handbrake applied and the power on electric wheelchairs switched off.

All luggage and equipment must also be stored securely, evenly distributed and the gross vehicle weight must not be exceeded by the combined weight of the passengers, luggage and equipment.

The vehicle must be in a satisfactory condition and a pre-use checklist is performed. This should cover both exterior checks, eg levels of oil, coolant, brake fluid, tyre pressure etc and interior checks, eg seat and mirror position, wipers working properly, function of dashboard controls etc.

(n) Notices

Schools must display the following in places where they are easily accessible to members of staff:

- Certificate of Employer's Liability Insurance as required by the Employer's Liability (Compulsory Insurance) Act 1969 and the Employer's Liability (Compulsory Insurance) (Amendment) Regulations 2008 (which dispense with the need to display a copy of the Certificate provided it is accessible to all employees electronically, eg via the internet);
- The 2009 version of the 'Health and Safety Law - What you should know' poster with details of local health & safety representatives in the designated spaces;
- Notices specifying:
 - The location of First Aid equipment and boxes;
 - The names and locations of First Aiders and Appointed Persons;
- Information and notices necessary to comply with the Regulatory Reform (Fire Safety) Order 2005, setting out evacuation procedures and the position of fire alarm points, extinguishers and fire exits.

Schools may choose to display other notices relating to action to be taken in the event of electric shock, for example, as a matter of good practice.

(o) Communication

For successful implementation of the school's health and safety policy clear lines of communication, with appropriate delegation and reporting relationships are necessary. In addition to communication within the school, there should be arrangements for identifying and receiving external information i.e. on new/amended

laws, developments in health and safety practice, codes of practice, guidance and British and European Standards.

It is important to remember that relevant information must also be communicated to people outside the school. These may include:

- The parents of pupils/students;
- The school's insurers;
- The HSE;
- The local Environmental Health Department;
- The local Fire Authority;
- The school's retained "competent person" who has been appointed to assist in identifying and implementing measures to comply with health and safety law.

(p) Competent Advice

Schools are required by the Management Regulations to appoint and have access to one or more competent person(s) to assist them in undertaking the measures necessary to comply with their many statutory obligations.

A person is regarded as competent where s/he has sufficient training, knowledge and experience to enable them to assist the school properly. Such advice can be provided internally or externally, however where there is a competent person within the school's employment, that person should be appointed in preference to a competent person not within their employment.

(r) Slips, Trips and Falls

The Workplace (Health, Safety and Welfare) Regulations 1992 stipulate that every floor, surface or traffic route in a workplace should be suitable for the purpose for which it is used, and should be properly constructed and maintained for safe usage. Additionally, the area should, so far as is reasonably practicable, be kept free from obstructions, articles or substances which may cause a person to slip, trip or fall.

(s) Others

Certain activities or parts of the school will have higher risks than others. These may include:

- Art;
- Design & Technology;
- Drama;
- Home Economics;
- PE/swimming;
- Science;
- Support (maintenance, grounds, caretaking).

Policy Areas

Bullying

The Education (Independent School Standards) (England) Regulations 2010 require schools to have regard to guidance from the Department for Children, "Safe to Learn: Embedding anti-bullying work in schools".

Asbestos

Asbestos may be found in buildings as heat and noise insulation or in fire protection material. All types of asbestos are dangerous. Should asbestos be found during maintenance or refurbishment work, advice should be obtained from suitably qualified experts. Removal work and handling of asbestos can only be undertaken by firms licensed to do so by the HSE.

The Control of Asbestos Regulations 2012 impose a duty to manage asbestos on the person who controls and has responsibility for the maintenance and repair of the school premises. Guidance on this duty can be found in the HSE Approved Code of Practice L143 "Managing and Working with Asbestos". This duty includes:

- Taking reasonable steps to find out if there are materials containing asbestos, and if so, its type, amount, location and condition;
- Presuming materials contain asbestos unless there is strong evidence that they do not;
- Making and keeping an up-to-date record of the location and condition of the asbestos-containing materials - or materials which are presumed to contain asbestos;
- Assessing the risk of anyone being exposed to fibres from the materials identified; producing, implementing and regularly reviewing a written action plan with appropriate control measures;
- Communicating the plan to anyone who is liable to work on asbestos containing materials, eg contractors or staff.

The regulations also require mandatory training for anyone liable to be exposed to asbestos fibres at work, including contractors and employees who may come into contact with or may disturb asbestos as well as those involved in asbestos removal work.

Construction Work

The Construction (Design and Management) Regulations 2015 ("CDM 2015") cover the planning and management of construction projects and form an essential part of project control. It should be noted that the definition of construction work in the regulations is wide and covers many activities, including demolition, refurbishment and rewiring.

During construction works schools must liaise with contractors to ensure the safety of staff, pupils, visitors and the contractors themselves.

There is a duty on those involved in a construction project, such as the controller of buildings (i.e. governing body or the Head), contractors and designers to co-operate with each other to identify risks early on, and to report matters that are likely to endanger health and safety. There is also a duty to take appropriate measures to prevent the risk of injury to any person during the construction, which would include staff, pupils and visitors to the premises.

CDM 2015 places significant duties on clients, i.e. those for whom construction work is carried out. Clients (usually the school) must:

- Take reasonable steps to ensure the competency of those they appoint, eg Designers, CDM Co-ordinators and Contractors;
- Ensure that there are reasonable management arrangements in place (including the allocation of time and resources) throughout the project to ensure that the construction work can be carried out, so far as is reasonably practicable, safely and without risk to health;
- Provide reasonably obtainable relevant information likely to be needed by designers, contractors or others to plan and manage their work.

Dangers are specifically associated with work at height, including the use of scaffolding and guidance notes are available from the HSE on the precautions required. The HSE document INDG 411 "Want construction work done safely?" provides a quick guide to clients on complying with CDM 2015.

CDM 2015 Regulations replaced CDM 2007 in April 2015. Significant changes will be made to the roles and duties within CDM 2007 so school management should ensure they are aware of the new law implemented (including the proposed Approved Code of Practice).

Contractors

Contractors may be required for a wide variety of tasks within the school. The school, in the role of client, needs to make sure that:

- It has assessed the competence of any contractor before appointment. This may include interviews, requiring potential contractors to complete pre-qualification questionnaires, taking references etc;
- The details of the work to be undertaken have been specified;
- The contractor has submitted relevant paperwork, such as risk assessments and method statements, to the school in advance of the work;
- The school has informed the contractor of any specific rules to which they must adhere to and details of risks which the school may control which could impact on the contractor;
- There are signing in and out procedures;
- Emergencies and out of hours work have been considered (as appropriate). It is important that the school understands it cannot simply engage a contractor and "let them get on with it".

Pesticides

The Control of Pesticides (Amendment) Regulations 1997 place obligations on the manufacturer, supplier and users of pesticides. A certificate of competence is required by users of pesticides and courses leading to the award of certificates are run by Agricultural and Horticultural Colleges, further education colleges and local authorities. Particular issues to note are the security, storage and precautions to be taken when using pesticides.

Special Educational Needs ("SEN") and Learning Disabilities

Schools should be aware of the provisions in the Children and Families Act 2014 and the Special Educational Needs and Disability Act 2001. When schools are addressing this issue regard should be had to:

- The need to balance the health and safety considerations of employees and individual student's rights to dignity, autonomy and privacy;
- Not using health and safety as an excuse for denying disabled pupils and those with SEN access to educational opportunities;
- Effective management of health and safety considerations for disabled pupils and those with SEN which allows them maximum opportunities in their education.

6. Employee's Responsibilities

The 1974 Act imposes responsibilities on the employer. However, it also imposes duties on each and every employee whilst at work. An employee is required to:

- Take reasonable care of the health and safety of him/herself and others who may be affected by his/her acts or omissions at work;
- Regards any duty or requirement imposed on his/her employer or any other person under any relevant statutory provisions, to co-operate so far as is necessary to enable that duty or requirement to be performed or complied with.

A statement to this effect should be included:

- (a) In any information pack given to new employees;
- (b) In the school's health and safety policy; and
- (c) In the employee's contract of employment.

It should also be emphasised during the employee induction process.

Employees should follow instructions from their employer on health and safety matters and should attend all relevant health and safety training. Employees should also report any defects or hazards observed in the workplace.

In any event, failure to comply with health and safety regulations may be reasonable grounds for dismissal although, in certain circumstances, an employee can claim protection when faced with dismissal. For example, "whistle blowers" who report breaches of health and safety law to enforcing authorities.

7. Governors' Responsibilities

For schools that are incorporated the Governors will be collectively liable for any breach of health and safety law and could face personal prosecution under Section 37 of the 1974 Act if they consent or connive in the breach or if the breach was attributable to neglect on their part. However, the likelihood of this occurring depends on the level of involvement each individual Governor has in the day-to-day decision making process of the school.

For an incorporated school the employer for the purpose of health and safety is the Company whereas for an unincorporated school the employer will be the Board of Governors. Section 37 of the 1974 Act will not apply because an unincorporated school is not a body corporate, which is a pre-requisite to personal liability under that section.

However, unlike the situation that applies for incorporated schools where breaches of health and safety law are enforced against the school in its name, the Governors of an unincorporated school are themselves personally liable as the employer. The degree of involvement and participation in the day-to-day affairs of the school is irrelevant. Governors are jointly and severally liable and can be sued/prosecuted collectively or individually.

Although it is possible to insure out of charity funds against risks of civil liability, for example employers and public liability insurance, it is not legally possible to insure against fines imposed by the criminal courts. Therefore, all Governors of unincorporated schools are at risk of personal prosecution for breaches of health and safety law.

8. Enforcement

Breaches of health and safety law, i.e. under the 1974 Act and Regulations made under it are criminal offences. The Health and Safety (Offences) Act 2008 ("2008 Act") increased the maximum fine Magistrates can impose for breaches of regulations from £5,000 to £20,000. Fines in the Crown Court are not subject to any statutory maximum. The 2008 Act also introduced the possibility of imprisonment for individuals (employees and senior management, including governors) for breaches of health and safety legislation. The maximum terms of imprisonment are 12 months in the Magistrates' Court and 2 years in the Crown Court.

A Governor of an incorporated school could face prosecution under the 1974 Act if the breach was committed with their consent or connivance or, "attributable to any neglect" on their part.

The Institute of Directors and HSE have issued guidance entitled "Leading Health and Safety at Work - Actions for directors, board members, business owners and organisations of all sizes" (INDG 417). The essential principles of this document are:

- To create strong and active leadership from the top;
- To engage with employees and promote safe and healthy conditions;
- To assess and review health and safety risks.

As noted above an individual, such as an employee, can be convicted of breaching the 1974 Act for failing "to take reasonable care" for their and others health and safety.

The prosecution only has to prove risk, and it is then for the employer to prove it took all reasonably practicable steps to avoid exposure. Governors should therefore ensure that they take all reasonably practicable steps to ensure the health and safety of all employees and non-employees involved in relevant activities on and off the school premises.

Inspectors have a statutory right to enter premises with or without notice where people are employed, including schools. They have very wide powers and are entitled to full co-operation. Where a breach of a statutory provision is discovered, the inspector may issue an Improvement Notice requiring the breach to be remedied within a specified time period or where there is a likely and imminent risk of serious personal injury, the inspector may issue a Prohibition Notice requiring an end to that activity. In addition, where the HSE is the enforcing authority and the inspector discovers what they consider to be a "material breach" of legislation, a fee may be charged for the time spent by the inspector on the premises and in any administrative action related to the breach. This is known as "Fee for Intervention".

Despite the wide powers available to inspectors, visits should generally be considered positively and with an open mind. Inspectors can provide invaluable assistance in suggesting actions to improve health and safety within a school environment.

Schools are advised to have in place a documented Incident Response Protocol covering how to respond to an incident. For example:

- Notifying insurers;
- Taking appropriate legal advice and initiating an accident investigation;
- Securing the scene;
- Liaising with the police and/or HSE;
- Managing police/HSE interviews;
- Dealing with other regulators, such as a Local Authority, Fire Authority and the Independent Schools Inspectorate.

Breaches of health and safety law may also give rise to a civil action for compensation where an individual has suffered personal injury as a result.

9. Corporate Manslaughter

The Corporate Manslaughter and Corporate Homicide Act 2007 ("2007 Act") came into force on 6 April 2008 and made it easier for a Governing Body to be prosecuted following deaths on and off school premises. There are no new responsibilities on individuals, and they can still be prosecuted under the old common law offence of gross negligence manslaughter where an employee or third party (such as a pupil or contractor) dies as a result of a work activity if the individual's actions were considered grossly negligent. The individual would have to have day-to-day control of the activities which resulted in the death.

Under the 2007 Act, an offence will be committed where, in the way activities were managed or organised, the collective failings Health and Safety and Welfare at Work of the school's senior management (such as the Head, or the Governors) was a substantial element in a gross breach of the duty of care owed to the school's employees, pupils or visitors, which results in death. It will be for a jury to decide whether there has been a "gross breach" - whether the conduct fell far below what should reasonably be expected of the school. This could mean failure to comply with the 1974 Act, any relevant regulations and also any codes or guidance, such as Approved Codes of Practice issue by the HSE.

The penalties which may be imposed upon conviction of the offence under the 2007 Act are:

- An unlimited fine;
- A remedial order - which specifies the steps required to prevent a similar occurrence in the future;
- A publicity order - which requires the organisation to publicise in specific places the fact that they have been convicted under the 2007 Act, the penalty imposed and any other terms imposed by the Judge.

Mrs C. Cameron
Head

Mr C. Smith
Estate Manager / Health and Safety Officer

Reviewed on: April 2021
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