

# **HEALTH AND SAFETY**

# **THE RESPONSIBILITIES OF SCHOOL GOVERNORS**

Issued by Merton Council Safety Section



The Health and Safety Commission has endorsed the practical guidance contained in this document, which it commends to the education sector. **This is an extract from HSC guidance documents.**

### **Introduction**

- 1 The Education Reform Act 1988 gives school governors important powers and duties in controlling school premises and running schools, including health and safety responsibilities towards staff, pupils and visitors. With local management of schools (LMS) school staff, governing bodies and the Local Education Authority (LEA) need to work together to establish their health and safety objectives using legal requirements as a minimum to be achieved.
- 2 These requirements are not new, and generally schools are run without risk to health and safety. What is new is the increased responsibility of school governors to achieve this end. This booklet aims to raise awareness amongst governors of their health and safety duties.
- 3 As with other matters concerning the effective management of schools, it is the responsibility of head teachers to carry out the policies agreed and monitored by LEAs and governing bodies. Health and safety is no different in this respect, and detailed decisions about the day-to-day health and safety management of the school, such as taking unsafe equipment out of use, may also be delegated to the head teacher by the LEA or governing body.
- 4 This booklet outlines the legal duties of governing bodies, LEAs and others, in relation to health and safety matters, and gives practical guidance to governors about what they should know and do to ensure that their school is being run in a safe way and without risks to health. It will not make them experts in school health and safety but will help them decide when and where to go for further specialist advice.

### **What are the health and safety duties?**

5. The Health and Safety at Work etc Act 1974 (HSW Act) places duties on EMPLOYERS to safeguard **so far as is reasonably practicable**, the health, safety and welfare of their employees (Section 2 of the HSW Act) and the health and safety of persons not employed (Section 3 of the HSW Act) but who may be affected by the work activities, such as pupils and visitors. Employers have additional duties under other health and safety legislation such as the Control of Substances Hazardous to Health Regulations (COSHH).
6. PERSONS WHO CONDUCT AN UNDERTAKING WHICH INVOLVES CONTROL OF PREMISES also have duties under Section 4 of the HSW Act to take reasonable measures to ensure so far as is reasonably practicable that the premises and any plant and substances provided for work use are safe and without risk to health.

7. All EMPLOYEES have duties under Section 7 of the HSW Act to ensure they work in ways that are safe and without risk to health both to themselves, other staff and visitors. They must also co-operate with other people who have health and safety duties, for example by adhering to advice and instructions on health and safety matters from their supervisors and by reporting unsafe practices.
8. Under Section 36(1), where any person commits an offence under health and safety legislation which is due to the act or default of some other person, that other person may be charged with and convicted of the offence.

### **How is health and safety law enforced?**

9. Inspectors from the Health and Safety Executive (HSE) enforce health and safety laws in schools. They may visit without notice but will have identification. They may wish to inspect the school, or to investigate an accident or complaint.
10. They have the right to talk to employees and safety representatives, take photographs and samples and even, in certain cases, to impound dangerous equipment. They are entitled to co-operation and answers to questions.
11. Inspectors give help and advice on how to comply with the law. If there is a problem they may issue formal notices requiring improvements or prohibiting activities or the use of equipment. Recipients of such notices can appeal to an industrial tribunal. Inspectors have the powers to prosecute organisations or individuals for breaking health and safety law.

### **Who has health and safety responsibilities in schools?**

12. The introduction of LMS has not changed the LEA's role under the HSW Act as employer in county and controlled schools. The LEA retains those responsibilities outlined in paragraph 6 above. However, governing bodies also have:
  - (a) obligations arising from Section 36(1) of the HSW Act in relation to the LEA's legal requirements;
  - (b) duties under Section 4(2) of the HSW Act, the extent of which depends on the degree of control that they have.
13. Depending on the circumstances, the courts could hold to account either the LEA or the governing body, or both, for a breach of the health and safety legislation.
14. In aided schools, the governing bodies employ the teachers and, normally, all non-teaching staff except school meals staff, and are responsible for school buildings. They will therefore have the duties outlined in paragraphs 6 and 7. They should be able to obtain advice and assistance from their LEAs and diocesan authorities in carrying out these duties. Governing bodies of grant-maintained (GM) schools, city technology colleges and independent schools are responsible for all aspects of the school's management, including those related to health and safety.
15. Outside contractors often employ staff who work in schools, eg school meals and cleaning staff and building workers. These contractors will have 'employer' duties

as outlined in paragraph 6. LEAs and governing bodies will have duties towards contractors' staff, as outlined in paragraph 7.

16. Head teachers and other staff have a legal duty to co-operate with their LEAs and governing bodies so far as is necessary to enable health and safety requirements to be complied with.
17. Because governing bodies except for GM and independent schools are unincorporated, responsibility for complying with health and safety legislation rests with the governors as individuals. Governors who act responsibly, taking note of relevant guidance and asking for advice if in doubt, should have no difficulty in meeting their obligations.

### **THE LAW**

The Health and Safety at Work etc Act 1974 Sections 1, 2, 3, 4, 7, 36(1) (Ref 1)

### **GUIDANCE**

HSC. A guide to the Health and Safety At Work Etc Act 1974 (Ref 2)

*County and controlled schools: Does the LEA clearly define who is responsible for health and safety?*

18. LEAs (in consultation with governors and head teachers) prepare schemes by which they delegate responsibility to governing bodies of county and controlled schools for certain matters; the LEA's LMS scheme will set out what is delegated and what is not. Some of these responsibilities will relate to health and safety, and the scheme (or the LEA's safety policy that may form an annex to this) should include information about its division of responsibility with regard to health and safety matters.
- 19 *In general, LEAs retain responsibility for capital and grant-related expenditure. All other responsibilities can be delegated to schools. It is therefore essential for governors to check the position in their own LEA so that they know who is responsible for what.*
- 20 Governors will want to know for example who is responsible for:
  - (a) certain administrative matters, eg keeping accident records, investigating accidents, providing health and safety training, carrying out inspections;
  - (b) provision of specialist services, eg providing professional advice and information on health and safety matters;
  - (c) structural repairs and maintenance (including external decorations and replacement etc of architectural glass);
  - (d) contingencies, eg large-scale asbestos sealing or removal associated with non-structural work;
  - (e) purchase and maintenance of equipment, eg making sure that newly acquired machines, personal protective equipment like goggles, portable electric tools, equipment for the playground, kitchen etc comply with any appropriate guidance or relevant British or European Community standards, and that the equipment is maintained in safe working order;
  - (f) non-structural repairs, eg doors, fences, non-architectural windows;
  - (g) cleaning of buildings and fittings, including classrooms, lavatories;
  - (h) upkeep of grounds.

### **Do your LEA and school have a health and safety policy?**

21. The key document which will help governors of county and controlled schools deal with health and safety is the LEA's HEALTH AND SAFETY POLICY. The LEA will expect governing bodies to comply with this. Governing bodies of aided schools will normally find it helpful to base their own policy on that of their LEAs. Detailed advice can be obtained from their diocesan authority. Governors of other schools are responsible for producing the policy themselves.
22. The written statement of health and safety policy should include:
- (a) a declaration signed by the director of education (or equivalent) of the employer's commitment to provide safe and healthy working conditions for employees and to ensure that their work does not adversely affect the health and safety of other people. This commitment should extend to providing adequate resources to implement the policy, including a progressive improvement of health and safety performance;
  - (b) an acknowledgement that the employer has responsibilities for the health and safety of pupils and visitors;
  - (c) details of the ORGANISATION (see paragraphs 25 to 27) for implementing the policy, including identification of a key senior person who is responsible for policy formulation, implementation and development, and an explanation of the responsibilities of officials, governors and head teachers. The contribution of other employees should also be made clear.
  - (d) details of the ARRANGEMENTS (see paragraphs 28 to 30) for implementing the policy, including the standards to be met, procedures to be followed, and the methods by which LEAs and governors maintain an effective information flow and provide adequate training on health and safety matters;
  - (e) details of the monitoring arrangements to ensure that the policy is being implemented and that information obtained is fed back to LEAs and/or governors for reviewing and developing the policy;
  - (f) a section for supplementary statements of organisation and arrangements necessary for implementing the policy in different schools or departments.
23. Governors will want to ensure that:
- (a) for county and controlled schools:
    - (i) the LEA has updated its health and safety policy, taking into account the introduction of LMS, and is keeping it under review. Where appropriate, governors should feed back information to the LEA for updating the LEA-wide policy.
    - (ii) the governing body approves and adopts the policy. This could be done by the governing body producing a complementary school policy.
  - (b) for aided, grant-maintained and independent schools the health and safety policy is approved and maintained.

### **THE LAW**

The Health and Safety at Work etc Act 1974 Section 2(3) (Ref 1)

## **GUIDANCE**

ESAC: SAFETY POLICIES IN THE EDUCATION SECTOR (Ref 3)

HSE: OUR HEALTH AND SAFETY POLICY STATEMENT: GUIDE TO  
PREPARING A SAFETY POLICY STATEMENT FOR A SMALL BUSINESS  
(Ref 4)

HSE: SUCCESSFUL HEALTH AND SAFETY MANAGEMENT (Ref 5)

DES: Circular No 7/88, paras 188-191 (Ref 6)

DES: Circular No 13/89 (Ref 7)

### **Organisation: who is responsible for doing what at your school?**

24. The legal duty to comply with health and safety legislation in each establishment rests with the employer. In practice, the employer controls by delegating functions to individuals.
25. When LEAs, governing bodies and head teachers have sorted out delegation of responsibilities they should make staff at all levels in the school aware of their health and safety functions. This can most easily be illustrated by using an organisation chart linking functions to job titles.
26. Governors will want to ensure that:
  - (a) the governing body has clearly set out the functions of staff at the school and written these into individuals' job descriptions;
  - (b) the head teacher makes the staff fully aware of what the governing body expects of them, checks that they are competent to meet those expectations, and arranges that the LEA should train staff where necessary to be competent to carry out their functions;
  - (c) the governing body and head teacher acknowledge that co-operation from all staff in health and safety matters is essential for controlling risks and complying with legal requirements, and that this is being achieved, eg through a safety committee and safety representatives;
  - (d) the governing body and head teacher recognise and set out the role of safety representatives appointed by a recognised trade union. Safety representatives must be allowed to investigate accidents and potential hazards, pursue employees' complaints and carry out school inspections. They are also entitled to certain information, for example about accidents, and to paid time off to train for and carry out their health and safety functions. However they are not part of the management structure and are not carrying out their duties on behalf of the head teacher or governing body;
  - (e) the governing body and head teacher recognise and set out the roles of specialists (eg education advisers, safety officers, fire precaution officers, building and engineering department staff, outside contractors) and the means of liaising effectively with them;
  - (f) the governing body and head teacher are communicating effectively with each other and with LEA officials, staff, parents and pupils.

## **THE LAW**

The Health and Safety at Work etc Act 1974 Section 2(4) (Ref 1)  
The Safety Representatives and Safety Committee Regulations 1977 (Ref 9)

## **GUIDANCE**

HSC: SAFETY REPRESENTATIVES AND SAFETY COMMITTEES (Ref 10)

*Arrangements: are clear procedures in place to identify and control risk?*

27. The governing body has to plan for the school to be able to implement the health and safety policy by setting health and safety objectives and performance standards for their school. This will promote a positive view of health and safety and control risks.
28. They will expect individual members of staff to meet these objectives and standards. For example, heads of departments need to identify likely problems and assess the risks involved in order to be able to work out health and safety arrangements. Heads of department should be able to identify appropriate standards from codes of safe practice and other guidance notes produced by the LEA, and by appropriate national bodies. In county and controlled schools it is important that there is continuity with arrangements which existed before LMS.
29. Governors will want to know that members of the school management team have considered key areas and set performance standards to include:
  - (a) General matters affecting most schools
    - accident reporting and investigation - by whom and to whom
    - first-aid provision
    - general fire safety
    - waste disposal - laboratory material (chemicals, broken glass etc) and clinical waste
    - housekeeping (including cleaning) eg frequency, standards, checking arrangements
    - provision of advice and consultants' services - from whom and when
    - arrangements for safety representatives and safety committees
    - safety training - recognition of needs, arrangements for training and record-keeping
    - maintenance, both planned including any required, for example, by COSHH, the Electricity at Work Regulations and the Ionising Radiations Regulations, and for

(b) More specific matters for consideration where appropriate

- dealing with asbestos sealing and removal
- playground safety
- school trips
- safety on school transport
- contractors in schools (especially for construction work)
- vehicle movement within school premises
- local rules for departments, eg safe laboratory practice in the chemistry department
- work experience arrangements
- letting school premises to outside hirers
- dealing with violence to staff in school.

### **THE LAW**

The Health and Safety at Work etc Act 1974 Sections 2, 3, 4 (Ref 1)

The Safety Representatives and Safety Committee Regulations 1977 (Ref 9)

The Ionising Radiations Regulations 1985 (Ref 11)

The Control of Substances Hazardous to Health Regulations 1988 (Ref 12)

The Electricity at Work Regulations 1989 (Ref 13)

### **GUIDANCE**

ESAC: COSHH: GUIDANCE FOR SCHOOLS (Ref 14)

BUILDING CONTRACTS UNDERTAKEN ON EDUCATION PREMISES:  
STRATEGIES FOR THE HEALTH AND SAFETY OF STAFF AND PUPILS  
(Ref 15)

REPORTING SCHOOL ACCIDENTS (Ref 16)

VIOLENCE TO STAFF IN THE EDUCATION SECTOR (Ref 17)

HSE: ESSENTIALS OF HEALTH AND SAFETY AT WORK (Ref 18)

ELECTRICAL SAFETY IN SCHOOLS (ELECTRICITY AT WORK  
REGULATIONS 1989) (Ref 19)

DES: Series of booklets and bulletins covering various aspects of safety in  
school activities (Ref 21)

*Measuring: how does school management check that they follow the policy?*

30. The LEA (in county and controlled schools), the governing body and the head teacher should be able to monitor the school's health and safety performance to see, for example, that:

- (a) physical controls are in place and working;
- (b) staff are carrying out the functions allocated to them; and
- (c) review procedures are working.

31. Methods for doing this include:

- (a) monitoring the accident/incident {SUCCESSFUL HEALTH AND SAFETY MANAGEMENT (Ref 5) defines 'accident' as including any undesired circumstances which give rise to ill health or injury; damage to property, plant, products or the environment; production losses or increased

- liabilities; and 'incident' as including all undesired circumstances and near-misses which have the potential to cause accidents.} reports;
- (b) carrying out health and safety inspections; this could be done either by dealing with a particular area of the school (eg the Design and Technology department) or a particular aspect of health and safety (eg COSHH, sports arrangements) across the whole school. Most effective inspections involve both management and safety representatives;
  - (c) checking maintenance reports, eg of efficiency of fume cupboards, lift examinations;
  - (d) monitoring complaints and hazard reports from staff, pupils and parents;
  - (e) examining safety committee meeting minutes and follow-up procedures.
32. Governors will wish to satisfy themselves that monitoring arrangements along these lines are in place and the results of them are reported to the governing body. They may wish to do this by setting up a health and safety committee, by including health and safety in the terms of reference of an existing sub-committee or by designating an individual on the governing body with specific health and safety responsibilities.

#### **What else will governors need to know?**

33. Governors will also want to know about:
- reports of any health and safety audit arranged by the LEA
  - reports of HSE inspectors' visits including any enforcement action
  - reports of safety representatives' inspections
  - details of any new health and safety legislation, including HSE/ESAC guidance
  - LEA codes of practice
  - DES guidance and advice
  - reports by HM Inspectorate (DES) drawing attention to possible safety matters more generally.

#### **Which reports should governors make themselves?**

34. Governors will be expected to make reports on health and safety matters to:
- (a) the LEA in county and controlled schools; these should include any details requested by the LEA to monitor its own implementation of its health and safety policy;
  - (b) parents, through Governors' Minutes, the Annual Parents' Report and Meeting, on other occasions as appropriate and in response to specific concerns.

#### **Should governors carry out inspections themselves?**

35. There are no hard and fast rules about inspections involving governors. What is important is that governors know when inspections are being carried out and that they make appropriate decisions about remedial action that is found necessary by inspections.
36. Some governors may wish to contribute to the school's well-being and demonstrate their commitment and interest by tours and inspection of the school. Others may prefer to leave this to senior school management.

37. Regular joint safety inspections by governors, management and safety representatives have helped to foster expertise in governors as well as directly acquainting them with health and safety concerns at the school.

**What sort of decisions will be required?**

38. Where governors have had responsibility for their school budget delegated to them, they must consider, together with the head teacher, how their funds are allocated. Governors will have to decide which health and safety matters requiring attention are the most urgent, which can be delayed without serious effect and whether there are temporary arrangements which can be made until a more permanent solution can be found. In reaching their decisions they must take account of standards which have been set nationally. Major decisions made should form part of School Development Plans.
39. A few laws require employers to do things irrespective of the cost and the time involved. Generally though governors have to do what is 'reasonably practicable' which means they need to balance up the risk involved against the cost (in terms of money, time etc) to put the matter right.
40. Where governors have responsibility for awarding their own contracts, eg for cleaning services and building works, they will need to make decisions about health and safety standards to be included in specifications and contract conditions. If the contract is to run efficiently and safely for the school's staff and pupils, full consideration needs to be given to health and safety factors before tendering takes place.
41. Appendix 1 is an EXAMPLE of the sort of report which governing bodies might wish to adopt as a means of formalising information flow on health and safety matters so that they can make the necessary decisions at their termly meetings (or meetings of their health and safety sub-committees). Although the problems listed are based on real cases which have arisen in particular schools the solutions adopted are not necessarily suitable for other schools.

***Governors will want to see that:***

- action is allocated to individuals
- time limits have been set for all actions
- remedial action to deal with the problem and longer-term action to address the cause are identified.

**What help can governors expect in making these decisions?**

42. Section 57 of the Education (No 2) Act 1986 places a duty on LEAs to ensure that all governors of county/controlled, aided and some special agreement schools are provided, free of charge, with appropriate training and information to equip them for their role.
43. Most LEAs run training courses in health and safety for governors.
44. Governors will want to contact their LEAs for details of such training.

45 Governors play a vital role in the management of their school. This includes the school's health and safety performance. This booklet provides help but if more is required governors should contact their LEA, their diocesan authority or the national body representing their interest. HSE inspectors can also provide help.

REPORT OF SUMMER TERM HEALTH AND SAFETY INSPECTION PRESENTED TO GOVERNORS FOR INFORMATION AND FOR AGREEMENT TO PROPOSED ACTION

Appendix 1

Problems Identified	Immediate action recommended	Other action to resolve problem	Other action to address cause	Progress report at governors meeting
<p>EXTERNAL</p> <p>1. Fence in small playground broken; paling; paling sticking out at children's eye level</p>	<p>1. Ms H to arrange extra supervision for children in area or for it to be cordoned off.</p> <p>2. Mr S to contacts works department for removal of paling.</p>	<p>Mr S to arrange with contractors for fence repairs to be done within two weeks.</p>		<p>Ms H decided to make small playground out of bounds. Paling removed next day. Three quotes tabled for replacement fencing. DECISION NEEDED TO DAY</p>
<p>GENERAL</p> <p>2. First Aid: One of three trained first aiders left last term and has not been replaced</p> <p>3. Windows in various parts of the school are dirty.</p>	<p>Ms W to arrange suitable cover by existing first-aiders and amend notices.</p> <p>Mr S to check natural lighting levels are adequate especially on staircase. If not, lights must be left on there.</p>	<p>Ms W to arrange training for replacement on next available course</p>	<p>MS H to review arrangements so that replacements trained in advance.</p> <p>Mr S to review window cleaning contract and make proposals</p>	<p>Mr G volunteered to become a first-aider and course arranged for next term.</p> <p>Review shows dirtiest windows are on main staircase and expensive and hazardous to clean. DECISION REQUIRED ON LONG TERM ACTION.</p>

Problems Identified	Immediate action recommended	Other action to resolve problem	Other action to address cause	Progress report at governors meeting
<p>DEPARTMENTAL DESIGN &amp; TECHNOLOGY</p> <p>4. Art teacher using drilling machine with spindle guard not properly adjusted; on questioning no training about machine received.</p> <p>5. Insulation burnt on mains cable to soldering iron.</p> <p>SCIENCE</p> <p>6. Pupils not wearing goggles during chemistry experiment because only one pairs available for every two pupils.</p> <p>7. Ms B wishes to develop microbiological project work and not sure about COSHH requirements</p>	<p>Mr D adjusted guard correctly during inspection and advised art teacher not to use machine until properly trained.</p> <p>Soldering iron taken out of use and locked away after inspection by Mr D until cable is replaced.</p> <p>Ms C to postpone practical lessons requiring eye protection. Ms C to order adequate supplies of goggles</p> <p>Ms C to ensure work not started until ASE's TOPICS IN SAFETY and other related guidance is consulted and necessary precautions adopted</p>	<p>Ms H to issue instructions to staff not to use machines if not trained. Mr D to consult CDT adviser about "adequate training"</p> <p>Ms C to discuss with LEA adviser and safety officer</p>	<p>Mr D To review departmental procedures</p> <p>Mr D to: Check item is on electrical apparatus inventory for inspection Review inspection periods.</p> <p>Ms H to arrange for review of all protective clothing and it's security.</p> <p>Ms H to check induction training arrangements for new teachers, including provision of school safety policy.</p>	<p>MS H has circulated instructions; awaiting Mr D's consultations and reviews.</p> <p>This incident raises the question of whether we should replace mains soldering irons with low voltage ones. DECISION REQUIRED.</p> <p>Goggles ordered but inadequate funds in Science budget. DECISION REQUIRED: CAN WE USE THE CONTINGENCY FUND.</p> <p>Project suspended until next term.</p>
Problems Identified	Immediate action	Other action to resolve	Other action to address	Progress report at governors

	recommended	problem	cause	meeting
<p>SECURITY</p> <p>8. Section of main perimeter fence adjacent to public footpath vandalised</p>	<p>Mr S to install temporary cordon and contact fencing contractors to arrange immediate repair.</p>	<p>Ms H and Mr S to agree upon a regular system of visual checks.</p>	<p>Mr S to enter details of incident into logbook. Community Police officer to be informed.</p>	<p>Perimeter fence now secure, but incident indicates that fence cannot withstand a high level of physical attack. Further report to governors next meeting. The need for upgrading vulnerable areas will be considered in the light of any further incidents.</p>
<p>SCHOOL TRIPS</p> <p>9. Transport reports unruly behaviour by year 9 pupils while on coach to swimming baths. Some pupils not making full use of seat belts.</p>	<p>Ms H to request Ms A to make enquiries of school staff present and if necessary deal appropriately with trouble makers.</p>		<p>Ms H to review travel and out of school arrangements in the light of feedback from Ms A and current related guidance, e.g. the RoSPA resource package "TOGETHER SAFELY"</p>	<p>Report to meeting</p>

KEY

Ms H: Head teacher

Mr S: Schoolkeeper

Ms W: Welfare Assistant

Mr G: Head of Geography

Ms C: Head of Science

Mr D: Head of Design and Technology

Ms B: Recently qualified biology teacher

Ms A: Head of Year 9