Surrey Education in Partnership

Local authority education duties

2017

Version 2: March 2017
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School place planning duties (s13-14 Education Act 1996)
The Council as an education authority has a duty to promote high standards of education and fair access to education. It also has a general duty to secure sufficient schools in their area, and to consider the need to secure provision for children with SEN. This includes a duty to respond to parents’ representations about school provision. These are referred to as the school place planning duties.

The LA has a duty to follow statutory processes when establishing, closing, or making alterations to a school (s6A, 7,9, 10,11, 15 and 19 Education and Inspections Act 2006 and school organisation regulations).

The class size duty requires the LA to restrict class sizes for 4-7 year olds to 30 pupils per class (s1 School Standards and Framework Act 1998).

Education otherwise than at school
The Council as an education authority has a duty to make arrangements for the provision of suitable education at school or otherwise for each child of school age who for reasons of illness, exclusion or otherwise would not receive it unless such arrangements were made.

LAs may establish pupil referral units but do not have a duty to do so (s19 Education Act 1996). However:

- Where a PRU is established, the LA has duties to set up a management committee and to delegate its duties to the management committee
- The LA has a duty to provide education for a permanently excluded child from the sixth day after the exclusion

Welfare/Inclusion
The local authority has a duty:

- To make arrangements to establish the identities of children residing in the area who are not receiving suitable education (s436A Education Act 1996)

- To begin procedures for issuing a School Attendance Order if it appears to the local authority that a child of compulsory school age is not receiving a suitable education, either by regular attendance at school or otherwise (s437 Education Act 1996)

1 All information is correct at time of publication

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\begin{itemize}
  \item To consider serving an education supervision order before prosecuting for truancy (s 447 Education Act 1996)
  
  \item In relation to pupils excluded from school to receive information from schools and pass it to the Secretary of State and to establish review panels (s51A Education Act 2002)
  
  \item To develop accessibility strategies to facilitate better access to education for disabled pupils. Schools also have to develop access plans which build upon the local authority access strategy. (s88 Equality Act 2010)
\end{itemize}

**Special Educational Needs**

The Council as education authority has specific duties in relation to provision of education for children with special educational needs (SEN). The main duties are (Part 3 Education Act 1996):

\begin{itemize}
  \item To publish information about SEND provision available in and outside the area
  
  \item To identify whether a child for whom they are responsible has SEN
  
  \item To assess a child who in their opinion has SEN
  
  \item If the assessment shows that it is necessary, to make an EHC Plan determining the child’s needs and the educational provision required
  
  \item To ensure the specific provision set out in the Plan is made
  
  \item To keep the Plan under review
  
  \item To educate children with SEN in mainstream schools where possible
  
  \item To inform parents when SEN provision is made
  
  \item To arrange for and participate in mediation where required
  
  \item To make all decisions with regard to:
    \begin{itemize}
      \item The views, wishes and feelings of the child and his/her parent or the young person
      \item The importance of involving them in decisions and providing the right information and support to allow them to do so
      \item The need to support the child or young person and help them achieve the best possible educational and other outcomes
    \end{itemize}
  
  \item To promote integration of education and training provision with health and social care
\end{itemize}
• To make joint commissioning arrangements about education, health and care provision

• To make arrangements for an advice and information service and a dispute resolution service for parents of children with SEN

School transport duties
The local authority has a duty:

• To make provision for suitable home to school travel arrangements for eligible children of compulsory school age (5-16) to facilitate attendance at a relevant educational establishment. Travel arrangements are provided free of charge. (s508B Education Act 1996)

• To promote sustainable modes of travel to assess general school travel needs. The local authority must publish each academic year a document containing their strategy to promote the use of sustainable school travel. (s508A Education Act 1996)

• To have regard to religion and belief in exercise of travel functions (s509 AD Education Act 1996)

• To specify to what extent the arrangements they include in their annual transport policy statement facilitate the attendance of disabled persons and persons with learning difficulties

• To publish annual Post-16 Transport Policy Statement which must set out the arrangements for the provision of transport, and for financial assistance towards transport costs, it considers necessary to facilitate attendance of students of 6th form age

Admissions duties
The council has duties in relation to school admissions both as local authority and as the admission authority for all community and voluntary controlled schools. These duties are:

• To provide advice and assistance to parents when deciding on a school place and allow parents to express a preference (s86(1A) School Standards and Framework Act 1998)

• For each school year, the local authority must publish the prescribed information about the admission arrangements for each of the maintained schools in their area, and if regulations so provide, such maintained schools outside their area (s92 SSFA)

• To publish each year a composite prospectus for all publicly funded schools in the area
To formulate, publish and adopt a scheme to co-ordinate admission arrangements for all publicly-funded schools in the area, which allows parents to apply to schools in other local authority areas, and to provide information to the Secretary of State on secondary school admissions on National Offer Day

To make arrangements for parents to appeal against admissions decisions

To establish and manage a Fair Access protocol for in year admissions

To annually write to parents of prospective schools in their locality with information about schools with atypical admission ages within the local authority or within reasonable travelling distance. (Implementation from 14th February 2017)

To include details of schools with atypical admission ages in the local authority or within reasonable travelling distance in their composite prospectus. (Implementation from 14th February 2017)

As an admissions authority, the council has to determine each year the admissions arrangements for community and voluntary-controlled schools in Surrey.

**Curriculum and assessment**

The local authority, and governing bodies have a duty to exercise their functions with a view to securing, and a head teacher has a duty to ensure, that the curriculum provided is:

- broad and balanced
- comprises the National Curriculum, including implementing key stage test arrangements (SATs)
- includes provision for religious education and
- for pupils in secondary school, sex education
- and that they have regard to statutory guidance issued by the Secretary of State (Education Act 2002, s79,85(9) and 88 1(A))

In relation to key stage 1 assessment, the local authority must:

- make provision for moderating teacher assessments in respect of 25% of relevant schools
- collect teacher assessment information from relevant schools and quality assure it, and submit it to the DfE
- ensure school shave training and advice in all aspects of key stage 1 assessment and electronic systems to submit data
In relation to key stage 2 assessment, local authorities must visit 10% of schools administering tests for monitoring purposes.

From summer 2012, local authorities must monitor at least 10% of relevant schools to ensure Yr 1 phonics screening check is being administered correctly. They must visit at least 10% of relevant schools before, during and after the check and submit information to the DfE. (Key Stage 1 assessment Order and statutory guidance)

**Religious Education**
The local authority must establish a body called a standing advisory council on religious education. (s390-391 Education Act 1996).

The local authority must ensure that head teachers comply with their duties to secure due provision of religious education, and that all pupils take part in a daily act of collective worship. (ss 69-70 School Standards and Framework Act 1998)

**School Meals**
The authority has a duty to provide school lunches for those eligible for free school meals, and to ensure that the food provided is nutritious. In practice, this duty is delegated to schools.

**School Finance**
The local authority has a duty to (s45 etc School Standards and Framework Act 1998, School Finance Regulations 2008 and 2011):

- Determine school and PRU budget shares in accordance with the school finance regulations
- Establish a schools forum for the area
- Maintain a scheme for financing schools
- Provide accounting information to the DfE under the Consistent Financial Reporting Regulations

**School Governors**
The local authority has a duty to:

- Appoint parent governor representatives to local authority committees dealing with education (s499 Education Act 1996)
- Appoint local authority governors to all maintained school governing bodies (s19 School Standards and Framework Act 1998)
- Provide training and information for school governors (s22 Education Act 2002)
Set up temporary governing bodies for new maintained schools (s34 Education Act 2002)

**School sites and buildings**

The local authority has a duty to:

- Ensure that school buildings meet minimum standards (s543 Education Act 1996 and School Premises Regulations 1999)
- Maintain school premises (s22 School Standards and Framework Act 1998)
- Comply with legislation governing disposal of land on school sites (s77 School Standards and Framework Act 1998)
- Transfer land when school changes category or becomes an Academy (Education and Inspections Act 2006)

**Inspection/intervention**

The local authority has a duty to:

- Provide information, distribute report and to produce and distribute a post-inspection action plan for Joint Area Reviews and OFSTED inspections
- Produce an action plan if a school goes into special measures following an OFSTED inspection
- Comply with statutory requirements if the authority decides to use its powers to intervene (s64-66 of the Education and Inspections Act 2006)
- To comply with a direction of the Secretary of state to give a school a warning notice (s60A and 69B of the Education & Inspections Act 2006)

**Teachers and Staff**

The local authority is the employer of all staff in community, voluntary-controlled and special schools. In foundation, voluntary-aided and foundation special schools, the governing body is the employer.

Under the school staffing regulations, the governing body and head teacher in all schools are responsible for the day-to-day management of staff. The following duties are therefore largely delegated to schools, although the local authority will have supervisory or residual role, particularly where they are the employer.

The local authority has:

- Duties in relation to teachers pay (s122 Education Act 2002 and School Teachers Pay and Conditions Document)
A duty to check that teachers have Qualified Teacher Status (School Teachers Qualifications Regulations)

A duty to ensure that staff have the necessary health and physical capacity (Education Health Standards Regulations 2003)

Duties in relation to the appointment, management and dismissal of staff (School Staffing Regulations)

A duty to keep a register of vetting checks carried out on staff (School Staffing Regulations)

The local authority retains the following duties in relation to staff:

To act as the Appropriate Body in the statutory induction process for maintained schools, jointly responsible with the head teacher for the supervision and training of Newly Qualified Teachers and deciding whether they have passed their induction (s19 Teaching and Higher Education Act 1998)

To establish a performance management policy for teachers (s21 Education Act 2002)

Duties as employer for pension purposes of all teachers in maintained schools relating to service and contribution remittance (Teachers’ Pension Regulations 2010)

The Prevent duty
This duty arises from the Counter Terrorism and Security Act 2015 and relates to a range of organisations including schools and LAs. They must take steps to prevent people from being drawn into terrorism.

Local authorities must work with local partners to protect public, prevent crime and promote strong integrated communities. Some local authorities do this through Community Safety Partnerships.

LADO
The LADO has responsibility under Working Together to Safeguard Children 2013 to manage allegations against individuals who work with children.

Academy conversions
The local authority has a duty to, where the Secretary of State has made an academy order, to arrange to transfer the land and buildings to the academy trust on a 125 year lease and assist with the preparation of the lease and CTA within reasonable timescales.

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Early Education and Childcare
The local authority has a duty to (s6,7,9 Childcare Act 2006):

- Secure sufficient childcare places, so far as is reasonably practicable, for working parents or parents who are studying or training for employment, for children aged 0-14 (or up to 18 for disabled children)

- Take into account what is ‘reasonably practicable’ when assessing what sufficient childcare means in their area and:
  - the state of the local childcare market, including the demand for specific types of providers in a particular locality and the amount and type of supply that currently exists
  - the state of the labour market
  - the quality and capacity of childcare providers and childminders registered with a childminder agency, including their funding, staff, premises, experience and expertise
  - encourage schools in their area to offer out-of-hours childcare from 8.00am and 6.00pm
  - encourage existing providers to expand their provision and new providers to enter the local childcare market

- To report annually to elected council members on how they are meeting their duty to secure sufficient childcare, and make this report available and accessible to parents

Miscellaneous
The Education Acts also impose some more specific duties to:

- Determine the dates of school holidays (s32 Education Act 2002)

- Participate in the Contact Point database

- Provide independent careers advice for pupils aged 14-16 in pupil referral units

- Secure access to positive activities, to ensure young people have access to sufficient educational leisure-time activities which are for the improvement of their well-being and personal and social development (s507B Education Act 1996)