

Headteacher and school governors owe fiduciary duty to local authority in spending of school's delegated budget (High Court)



The High Court ruled that a former headteacher and a school's governing body owed a fiduciary duty to a school's local authority in respect of spending a school's delegated budget.

The school's former headteacher and two school governors were responsible for authorising "bonus" payments from the school's delegated budget to teaching and non-teaching staff, totalling £2.7 million over a six year period (of which the former headteacher received approximately £900,000).

It held that they had breached their fiduciary duty, either through dishonesty or reckless indifference to the improper purpose of some of the payments, and were accordingly liable to the council. In addition, the council's claim against the governors for misfeasance in public office was partly upheld by the court, which held that the governors were public officers in this context.

DfE updates guidance on mental health and behaviour in schools



On 12 November 2018, the Department for Education (DfE) updated its guidance *Mental health behaviour in schools* which is essential reading (www.gov.uk). It sets out schools' responsibilities in relation to supporting the mental health and well-being of their pupils. Schools should support pupils as soon as problems emerge and work collaboratively with other agencies. The guidance includes advice on accessing and shaping specialist services available locally (such as educational psychology services and support for mental health), that are available locally.

The advice should be read in conjunction with the DfE's non-statutory advice on behaviour and discipline in schools and be cross-referenced with chapter 6 of the SEND code on additional needs.

It is also relevant to issues concerning alternative provision, exclusions and children's safeguarding.

DfE: Charging for school activities



The DfE has updated its guidance on charging and remission for school activities and school visits under ss.449 - 462 of the Education Act 1996.

DfE: Keeping children safe in education



In September 2018, the DfE updated its statutory guidance on legal duties to safeguard and promote the welfare of children and young people under the age of 18. Schools should read the section on allegations of child-on-child sexual violence and sexual harassment. Important information is given on how to report or act on safeguarding concerns which require staff to take immediate action and speak to the designated safeguarding lead if they have a concern about a child's wellbeing.

Updated GDPR toolkit for schools



In September 2018 the DfE also updated its data protection toolkit for schools, which is intended to support schools' compliance with the new data protection regime imposed by the General Data Protection Regulation and the Data Protection Act 2018.

Updated guidance is provided on safeguarding, consent, retention, data protection officer and data breaches sections of the toolkit.

Council told to reconsider school admission appeal (LG&SCO)



A recent case has flagged up that admissions hearings must be conducted fairly otherwise the ombudsman may overturn its decision. The complainant, Mrs D, was a victim of 'honour'-based violence, and applied for a Year Five place for her son at a school outside their catchment area to ensure that her son would not be attending a school attended by any of her family members. The council rejected the application because the school was full, and Mrs D appealed due to the way that the hearing had been conducted.

The Ombudsman found that Mrs D had not been given sufficient opportunity to state her case. It noted that questioning from the panel took the form of a cross-examination. It observed that there was excessive questioning relating to why Mrs D was sure there were no family members at the school. The Ombudsman held that their approach to questioning was inappropriate, and upheld Mrs D's complaint.

These hearings should be relatively informal and should check that the parents are happy with the procedure and that they have said everything that they wish to say.

School attendance guidance for schools



Department for Education The DfE has updated its guidance for schools document (www.gov.uk).

The government expects Schools and local authorities to:

- promote good attendance and reduce absence, including persistent absence;
- ensure every pupil has access to full-time education to which they are entitled; and,
- act early to address patterns of absence.
- remind parents that it is their legal duty to ensure that their children attend school regularly.
- ensure that all pupils are punctual to their lessons.

It also sets out the requirements that a school must follow in relation to its attendance register.

It flags up that if children are missing, there may be safeguarding issues and schools must have regard to the statutory guidance 'Keeping Children Safe in Education'. Schools should ideally have more than one emergency contact number and parents must regularly update schools if these have been changed.

All schools must notify the local authority when a pupil's name is to be deleted from the admission register under any of the grounds prescribed in regulation 8 of the Education (Pupil Registration) (England) Regulations 2006 and the guidance sets out the information that the school needs to send.

All schools (including academies) must agree with the relevant local authority, the regular interval that the school will inform the local authority of any pupil who fails to attend school regularly, or has been absent without the school's permission for a continuous period of 10 days or more.

Schools must inform the pupil's local authority if a child is to be home educated. They must not seek to persuade parents to educate their children at home as a way of avoiding excluding the pupil or because the pupil has a poor attendance record. Schools should not seek to prevent parents from educating their children outside the school system. There is no requirement for parents to obtain the school or local authority's agreement to educate their child at home.

Absence and attendance codes



There is detailed guidance on how to record the full spectrum of pupil absence from school and specific points on religious observance and for pupils from the travelling community.

Holiday authorised by the school



Head teachers should not grant leave of absence unless there are exceptional circumstances. The application must be made in advance and the head teacher must be satisfied that there are exceptional circumstances based on the individual facts and circumstances of the case which warrant the leave. Where a leave of absence is granted, the head teacher will determine the number of days a pupil can be away from school. A leave of absence is granted entirely at the head teacher's discretion.

Lateness

Schools need to address persistent lateness.



School day, School year



The law regulating the school day and school year applies only to schools maintained by a local authority and special schools not maintained by a local authority. This law does not apply to academies and Free Schools.

School Day



Every school day must have two sessions divided by a break. The length of each session, break and the school day is determined by the school's governing body. The governing body has the power to revise the length of the school day as it sees fit. There is no requirement to consult parents on revisions to the school day but it can assist parents to do so.

School Year



Schools must meet for at least 380 sessions or 190 days during any school year to educate their pupils. If a school is prevented from meeting for one or more sessions because of an unavoidable event, it should find a practical way of holding extra sessions. If it cannot find a practical way of doing this then it is not required to make up the lost sessions.

Parental responsibilities



The guidance is intended to be used alongside the DfE's statutory guidance on *School behaviour and attendance: parental responsibility measures* (www.gov.uk)

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