

## Section 1: Statutory Provisions.

### Chapter 5: Risk Assessment of Walked Routes to School

#### Overview

5.1 Local authorities are under a legal duty to assess the travel needs of learners who walk to school<sup>135</sup>. In making an assessment local authorities are recommended to take into account the following provisions.

#### **Part 1: Risk Assessment Procedure In Relation To Physical/Traffic Risks**

5.2 The scope of this section covers the relationship between learners and traffic. As pedestrians, learners face a number of hazards which are identified below. Walking the route will enable risk assessors to identify hazards.

#### **Route Conditions**

5.3 For a route to be classed as available Welsh Ministers recommend that the route needs to be:

- A continuous adequate footway on roads which carry medium to heavy traffic flow<sup>136</sup> **or**
- “Step offs”<sup>137</sup> on roads which have low traffic flow but adequate sight lines to provide sufficient advance warning to drivers and pedestrians **or**
- On roads with very low traffic flow, no “step offs”, but sufficiently good sight lines to provide adequate advance warning

5.4 If there is a need to cross roads Welsh Ministers recommend that there should be one of the following safety measures:

- Pedestrian refuges **or**
- Visibility – it should be good enough to allow vehicles to stop given the 85<sup>th</sup> percentile speed rule (or the speed at which no

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<sup>135</sup> Section 2 of the Measure

<sup>136</sup> Traffic flows are defined in Chapter 5 paragraphs 5.8 – 5.12

<sup>137</sup> For the purposes of this document the definition of “Step-offs is provided in the glossary (Section 2).

more than 15% of the traffic is exceeding) – vehicle stopping distances are set out in the Highway Code<sup>138</sup> **or**

- Sufficient gaps<sup>139</sup> in the traffic flow and sight lines to allow enough opportunities to cross safely **or**
- Sufficient crossing facilities (for example, zebra, pelican crossings) **or**
- Sufficient pedestrian phases at traffic lights (including necessary refuges) **or**
- Sufficient school Crossing Patrols (lollipop people)

5.5 Risk assessments of walked routes enable local authorities to determine whether a route to school is ‘available’ (safe) to walk. Further in cases where a route is deemed to be ‘unavailable’ (unsafe) the assessment process can determine what safeguards could be put in place to ensure that the route is or can become ‘available’ (safe) to walk. In deciding whether to undertake a risk assessment exercise the local authority will need to take into account whether the route has previously been assessed. If it has been assessed previously what has changed that would mean that a further assessment is required. For example:

- An accident or similar incident
- High accident statistics
- The opening or closure of schools
- Changes made to a route – road works, infrastructure changes
- Changes to traffic composition and volumes, including cyclists
- Changes affecting the route – new builds/housing developments, large scale construction projects
- Changes to the characteristics of the people walking the route – such as a wheelchair user using the route

## **Traffic**

5.6 It is recommended that assessments take place at the usual time learners travel to and from school, namely in the morning at the time before schools start, when traffic flow is generally heaviest (unless it can be shown that the afternoon flow is

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<sup>138</sup> <https://www.gov.uk/browse/driving/highway-code>

<sup>139</sup> Sufficient gaps in traffic flow are outlined in more detail in Chapter 5 paragraphs 5.8 – 5.12

heavier); at the end of the normal school day finishing time - a minimum of three surveys should be taken.

- 5.7 Speed limits on roads around or near schools should also be taken into account in relation to traffic flow to determine what safety measures are necessary.

### Traffic Flow on Roads

- 5.8 The flow of traffic along roads is a significant factor in determining the safety<sup>140</sup> of a walked route.
- 5.9 Low traffic flow occurs on roads that have a traffic flow below 400 vehicles in a 1 hour period; medium traffic flow occurs on roads with a traffic flow between 400 to 840 vehicles per hour; and heavy traffic flow occurs on roads with a traffic flow of over 840 vehicles per hour.
- 5.10 It is recommended that risk assessors undertake a gap analysis. This records the number of gaps in traffic flow and should record data in five minute consecutive intervals. Four such gaps within a 5 minute period are considered acceptable.
- 5.11 It is recommended that traffic counts are recorded as “passenger car” equivalent values (Passenger Car Units - PCUs), by using the following factors:

3 pedal cycles	1 PCU
2 motorcycles	1 PCU
1 Car	1 PCU
1 light goods vehicle (up to 3.5 tonnes gross weight)	1 PCU
1 Bus/Coach (over 3.5 tonnes)	2 PCUs
Goods Vehicles (over 3.5 tonnes)	2 PCUs
Goods Vehicles (over 7.5 tonnes/multi-axle lorries)	3 PCUs

- 5.12 All vehicle counts are two-way except on one-way systems. Dual carriageways are counted as one-way on each side. Where the two-way (one-way of a dual carriageway) traffic flow

<sup>140</sup> For the purposes of this document the definition of ‘Safety’ is provided in the glossary (Section 2)

is below 240 vehicles per hour the road is assessed as safe to cross. This is equivalent to 1 vehicle every 15 seconds, allowing a reasonable gap time to cross a 7m wide road at a walking speed of 0.92 m per second.

## **Collision History**

- 5.13 It is recommended that the road casualty record along the route is noted with special attention to accident danger spots. If the route is also used for public transport a note should be made of stopping places and the level of increased pedestrian use that could impact on foot path availability. Risk assessors could, for example, incorporate a 3 year collision history into the assessment of the whole route.
- 5.14 If a risk<sup>141</sup> is identified, it is recommended that suitable measures are considered – for example the introduction of speed humps or speed cameras<sup>142</sup>.

## **Footpaths**

- 5.15 Welsh Ministers consider that a footway, roadside strip of reasonable width and condition, a public footpath or bridleway will all normally be assumed to provide an available route. The footway will need to be wide enough to allow passage and, in the case of young children or those that should be accompanied, it should be wide enough to allow supervision to be carried out safely. The condition of the path should be examined to ensure it is clear of obstacles underfoot and from excessive foliage.
- 5.16 On a road with low traffic flow, a verge that can be stepped on by a child and accompanying parent when traffic is passing can normally be assumed to provide an available route. Many available routes may lie along roads that have neither a footway nor verge. On these roads, it is recommended that the width of the carriageway, traffic speed and type of traffic (e.g. frequent long or heavy goods vehicles) as well as visibility/sight lines that may be affected by sharp bends, high hedgerows or other obstructions ought to be considered.

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<sup>141</sup> For the purposes of this document the definition of 'Risk' is provided in the glossary (Section 2).

<sup>142</sup> Speed humps and speed cameras are normally only put in place in response to Road Traffic Collision statistics.

5.17 Where a route is found to be lacking in 'step offs' there may also be issues with adequate visibility– the features that affect the availability of 'step offs' often impact on visibility – hedges, gradients etc. In such cases, it is recommended that these be considered within the assessment criteria carried out by the local authority.

5.18 If a risk is identified the following may provide a solution:

- removing vegetation **or**
- resurfacing or widening the available foot path **or**
- providing a new foot path **or**
- providing lighting.

### **Crossing points**

5.19 Where roads need to be crossed, it is recommended that the availability of crossing facilities such as central refuges, pedestrian crossings or traffic signals be taken into consideration. Where there are no crossing facilities, the route's risk assessment ought to consider each required road crossing, bearing in mind traffic speed and flows, sight lines etc.

5.20 If there is a need to cross roads there ought to be:

- Sufficient gaps in the traffic flow and sight lines to allow enough opportunities to cross safely. The gap time analysis should be used where necessary **or**
- Pedestrian refuges **or**
- Crossing facilities (e.g., zebra, pelican, puffin crossing etc.) **or**
- Pedestrian phase at traffic lights **or**
- School Crossing Patrol.

5.21 If a road needs to be crossed the visibility at the location should allow a vehicle to stop, given the 85<sup>th</sup> percentile speed (the speed at which 85% of the vehicles travel below) of the traffic flow. Vehicle stopping distances should be taken as those given in the Highway Code. In many rural areas, the exercise of continuous judgement is likely to be required. No criteria can provide all the guidance or answers to every situation that may be encountered.

- 5.22 If roads have to be crossed to use a footway or to improve sight lines it may be necessary to advise on safe crossing places. On some country roads the footway may not be continuous. Informed judgement will have to be made about the availability of “step off” points.
- 5.23 The difficulty of crossing at a site can be assessed by considering the number of gaps in the traffic flow that are acceptable to pedestrians. Free flowing traffic may provide gaps randomly and fairly frequently but speeds tend to be higher and gaps would need to be longer in order to cross the road safely. An acceptable gap to cross from kerb to kerb varies with each person. Most people will be able to cross two lanes of normal urban traffic in 4 to 6 seconds. Others may need larger gaps of around 10 to 12 seconds.
- 5.24 It is recommended that the survey records the number of gaps in each 5 minute period that are longer than the road crossing time, using one metre per second as the walking speed. Four gaps in each 5 minute period indicate a road that can be crossed without too much delay. Longer gaps could be classified as multiple gaps rather than as just one gap.
- 5.25 In the case of a rail crossing, particular attention needs to be paid to the type of crossing and incidents that have been recorded to assess the safety of the crossing.

### **Canals, Rivers, Ditches and Embankments**

- 5.26 It is the Welsh Ministers’ view that where appropriate, it is important to ensure that adequate barriers and safety features are included and that these are of the appropriate height to take into account the age groups of learners that may use the route. Safety features include improved barriers, better signage, more lighting or alternative available routes.
- 5.27 It will also be important to establish:
- if the route has been subject to severe flooding<sup>143</sup>
  - if this is a regular occurrence and
  - when severe flooding occurs, whether a suitable detour is available

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<sup>143</sup> For the purposes of this document the definition of ‘Flooding’ is provided in the glossary (Section 2)

5.28 Information on flood management procedures can be acquired from Natural Resources Wales<sup>144</sup>.

## **Lighting**

5.29 The level of natural lighting will differ over the year. Seasonal change may require that a review of the route assessment may be appropriate (if reported conditions present difficulties for the learner and / or companion).

5.30 It is recommended that street lighting is also taken into account.

## **Planned Changes in the Area**

5.31 The assessment ought to consider any proposals that might impact on safety. Much of this information is likely to be held by the local authority and therefore the following checks will inform the risk assessment:

- Highways departments for proposed road works that would have a short-term impact on traffic conditions (e.g. road widening schemes)
- Planning departments for developments that may have a long-term impact on traffic (e.g. housing or retail developments)
- Education departments to check any proposed school reorganisations and/ or mergers

5.32 Where proposed changes are developed and may impact on walked routes to school, it is recommended that the relevant local authority department lead consult with learner travel teams as appropriate.

## **Level Crossings**

5.33 There are more than 6,500 level crossings in Britain with 1,167 (or 18% of them) within the Network Rail Wales Route.

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<sup>144</sup> <http://naturalresourceswales.gov.uk/alerts/?lang=en>



- 5.34 It is recommended that risk assessors, where applicable, include level crossing risk consideration within the risk assessment. Network Rail have produced educational material for schools which can be accessed by clicking <http://www.networkrail.co.uk/level-crossing/>
- 5.35 Where appropriate, risk assessors should consider contacting Network Rail's team of Level Crossing Managers who can provide advice and guidance on level crossing risk assessment control measures, such as level crossing risk awareness events. Contact details are available at <http://safety.networkrail.co.uk/Services/Contacts>

## **Part 2: Risk Assessment Procedure in relation to Social Danger**

### **The nature of Social Danger**

- 5.36 'Social Danger' is open to different interpretations and is subjective. In this context, the commonest interpretations provided by children and young people are as follows: stranger danger; danger(s) posed by paedophiles; danger(s) posed by criminals (muggers, thieves, murderers, kidnappers); anti-social behaviour (the presence of bullies or of alcoholics or drug addicts on walked routes to school); and physical manifestations, such as discarded needles or places where drug abuse/misuse take place.
- 5.37 Children experience real dangers when walking to and from school. Like adults, children can also perceive dangers even if none exists, and that too will understandably influence their behaviour and needs to be taken into account. A perceived danger may feel no less real than an actual danger. It will be important that before undertaking risk assessments, local authorities determine whether the perceived danger is supported by any evidence.
- 5.38 Where appropriate, Welsh Ministers recommend that other local authority services work to alleviate some fears, for example street cleaning or dog warden services.



5.39 There may also be a need to work with the teachers and parents of children who are concerned about stranger danger so that the child can be reassured though still aware of risk averse behaviours; travelling with friends, not speaking to strangers, etc. Consequently it is recommended that the local authority transport officials refer those cases not substantiated by evidence to the relevant school.

### **Tackling Social Danger in Risk Assessments – Working with Partners**

5.40 In the conduct of risk assessments, it is recommended that local authorities work in partnership with organisations/agencies which have expertise in, including responsibility for, tackling and quantifying social danger. The Police or Police Community Support Officers have responsibility for crime, disorder and anti-social behaviour whilst the Local Safeguarding Children Boards have responsibility for safeguarding/child protection matters.

5.41 Section 25 of the Children Act 2004<sup>145</sup> places a duty on local authorities to promote co-operation between the authority and ‘relevant partners’ to improve the wellbeing of children and young people. The ‘relevant partners’ comprise the Local Safeguarding Children Boards (LSCBs). Usually, these bodies include the Police Authority; the Chief Officer of Police; the local probation board; the youth offending team; the NHS Trust; the Local Health Board; and the relevant local authority (particularly senior Directors of Education and Social Services). The Welsh Government recommends that local authority transport officials should be invited to and regularly attend these meetings of the LSCBs to cover the safety of walked routes. Alternatively it is recommended that transport issues are included as an agenda item at each meeting and where appropriate further engagement with transport officials should be made.

5.42 The Children and Young People’s Plan (Wales) Regulations 2007<sup>146</sup> require that each local authority, following consultation with partners, should publish a Children and Young People’s Plan setting out how they will improve the well being of children and young people in their authority. The Welsh Government recommends that information about how walked routes have

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<sup>145</sup> <http://www.legislation.gov.uk/ukpga/2004/31/section/25>

<sup>146</sup> S.I. 2007/2316. - <http://www.legislation.gov.uk/wsi/2007/2316/contents/made>

been risk-assessed and made safer should feature in these Plans.

- 5.43 The Welsh Government published statutory guidance<sup>147</sup>, namely ‘Stronger Partnerships for Better Outcomes’ 2006 (National Assembly for Wales Circular 35/2006)<sup>148</sup> and ‘Shared Planning for Better Outcomes’ 2007 (Welsh Assembly Government Circular 31/2007)<sup>149</sup> which outlines the requirement on local authorities to prepare and publish a plan setting out the authority’s strategy for discharging their functions in relation to children and relevant young people. Further Information about these documents is provided in Section 3 (Question 18).

### **Multi Agency Public Protection Arrangements (MAPPA)<sup>150</sup>**

- 5.44 Under sections 325-327 of the Criminal Justice Act 2003<sup>151</sup>, there is a statutory duty on the “Responsible Authorities” (the Police, Probation and Prison Services) to establish arrangements to assess, manage and reduce the risk presented by relevant sexual and violent offenders to reduce re-offending and protect the public. This includes those who are considered to pose a risk to, or potential risk of harm to, children.
- 5.45 Partner organisations, which include local authorities, health boards, youth offending teams and social housing providers have a statutory duty to cooperate with the Responsible Authorities<sup>152</sup>. The Welsh Government expects local authority risk assessors to work within the legal framework described above to obtain the relevant expertise in terms of managing the risks posed to children using walked routes to school.
- 5.46 In terms of quantifying social danger, the existence of any such dangers should be supported by evidence (either qualitative or quantitative).

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<sup>147</sup> Under sections 25(B) 26 and 27(4) of the Children Act 2004

<sup>148</sup> <http://wales.gov.uk/topics/childrenyoungpeople/publications/strongerpartnerships/?lang=en>

<sup>149</sup> <http://wales.gov.uk/topics/educationandskills/publications/guidance/sharedplanningforbetteroutcomes?lang=en>

<sup>150</sup> <https://www.gov.uk/government/publications/multi-agency-public-protection-arrangements-mappa--2>

<sup>151</sup> <http://www.legislation.gov.uk/ukpga/2003/44/section/325>

<sup>152</sup> Section 325(3) Criminal Justice Act 2003.

5.47 When cooperating with other agencies, local authorities will need to put in place information-sharing protocols which comply with the Data Protection Act 1998<sup>153</sup> (particularly as information relating to children is sensitive)<sup>154</sup>.

### **Part 3: Seeking the Views of Learners**

Why is it important to seek the views of children?

5.48 It is important for the following reasons:

- Section 1 of The Rights of Children and Young Persons (Wales) Measure 2011<sup>155</sup> places a duty on Welsh Ministers to have due regard to Part 1 of, and the Protocols to, the United Nations Convention on the Rights of the Child when exercising any of their functions. In particular, Article 12 specifies that children have the right to say what they think should happen when adults are making decisions that affect them, and to have their opinions taken into account. The Welsh Government therefore attaches paramount importance to enabling the voice of children and young people to inform its policy development, particularly in relation to the matters which affect children and young people
- Children are the users of the walked routes to school

5.49 Local authorities can secure the views of children in a variety of ways:

- Children and Young People's Partnerships (CYPP) – these exist in each local authority area with the purpose of bringing together all services working for children and young people aged 0-25. Each partnership provides a voice for children's services and takes a lead in driving forward partnership working
- Walked routes forms for parents and children – these can be filled-in to allow views to be expressed about the safety of walked routes
- School Councils – these are a group of pupils elected by their fellow pupils to represent their opinions and raise issues with head teachers or school governors

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<sup>153</sup> <http://www.legislation.gov.uk/ukpga/1998/29/contents>

<sup>154</sup> Further information regarding this provision is outlined in Section 3 (Question 22 of this document),

<sup>155</sup> <http://www.legislation.gov.uk/mwa/2011/2/contents>

- Road Safety Officers – children and young people can feed their views to them when they visit schools
- School lessons – these can collect data to feed into School Councils, for example geography lessons that include a survey or risk audit of the local area
- Police and Communities Together (PACT) assemblies – these exist in each ward as a forum in which the Police and members of the public, including children, discuss topical issues/matters of local concern
- The All Wales Schools Core Liaison Programme – within this programme uniformed police officers deliver formal lessons in the classroom to reduce crime and disorder and to promote positive citizenship amongst children and young people
- School Travel Plans – these can be approved by a Local Authority Safety Group who would examine the Plans containing the children’s views on the safety of walked home to school routes
- The use of drop-in boxes which enable teachers, parents and learners to raise concerns

Views and Information collected from these engagement exercises could be taken into account and given due regard when assessments are carried out.

5.50 The frequency with which local authorities seek the views of children and young people is a matter for them. Welsh Ministers recommend that local authorities consider the following factors to help them decide when and how often to conduct the risk assessment process:

- An accident, incident or increase in personal injury
- High accident statistics
- The opening of new schools and / or mergers of existing schools (which involves the use of new routes)
- Changes made to a route – road works, infrastructure changes, temporary road closures
- Traffic – changes to traffic composition and volumes
- Changes affecting the route – cyclists, new builds/housing developments, large scale construction projects
- Bullying/anti-social behaviour – these could be addressed by Police Community Support Officers or School Community Police Officers

## **Part 4: Helping to Ensure the Safety of Children on the Home to School Route**

5.51 There are a variety of ways in which local authorities can help ensure, as far as is reasonably practicable, the safety of children and young people on the walked route between home and school:

- The provision of more lollipop people
- Putting traffic calming measures in place
- Encouraging children to walk with adults, friends or groups (in walking buses)
- Encouraging parents to accompany their children to school
- Encouraging parents to share the school run – such a practice could be coordinated by Parent Teacher Associations or community groups)
- Providing kerb craft training for children and young people – this would be a good way of teaching children how to be safer pedestrians by taking them on to roads and showing them how the right decision-making and behaviour can help them to keep safe
- Making wider provision of travel training – this is particularly useful for those learners with additional learning needs who can be taught how to walk independently between home and school. Such training has been proven to be beneficial for recipients (who develop a greater sense of independence and confidence) and cost-effective for local authorities
- School lessons or assemblies to discuss safe behaviour
- Encouraging School Police Liaison Officers, including Police Community Support Officers, to walk the walked routes to ensure, as far as is practicable, they are safe
- Reducing speed limits around schools to 20 mph and tackle pavement parking
- Encouraging the practitioners involved in the planning, provision and approval of new residential streets or the modification of existing streets to refer to and use the Department for Transport's Manual for Streets  
<https://www.gov.uk/government/publications/manual-for-streets>. This document explains how the relationship between buildings and the street is essential for creating places that are good for people

- Promoting awareness, understanding and implementation of the statutory All-Wales Travel Behaviour Code

## **Part 5: The Mechanics of the Risk Assessment Process**

- 5.52 The Risk Assessment matrix is at Annex 1<sup>156</sup>.
- 5.53 Welsh Ministers are of the view that the various criteria used for assessing risk should be weighted equally regardless of whether they are physical, topographical, social, environmental or geographic.
- 5.54 Parents can request to accompany the Risk Assessor during the risk assessment.
- 5.55 In the event of disputes between local authorities and parents, it is recommended that the existing dispute resolution mechanisms should be used:
- Step 1 - complaints are referred to the relevant local authority Transport Department
  - Step 2 – if unresolved, disputes are referred to the local authority’s Complaints Officer or Monitoring Officer
  - Step 3 – if still unresolved, complainants should take their case to the Public Services Ombudsman for Wales. Where cases are referred to the Ombudsman, the issue must comply with the specific eligibility criteria enabling referral, this can be found at <http://www.ombudsman-wales.org.uk/Contact%20us.aspx>

## **Part 6: Roles and Responsibilities**

It is the Welsh Ministers’ view that:

### **Parents<sup>157</sup>**

- 5.56 Parents have the following responsibilities:

<sup>156</sup> It is recommended that this matrix be taken as a basis from which a local authority can develop a more detailed risk analysis assessment form as appropriate and in accordance with this statutory guidance.

<sup>157</sup> The Definition of ‘parent’ is outlined in section 576 of the Education Act 1996. For ease of reference the definitions of ‘parent’ and ‘parental responsibility’ are provided in the glossary (Section 2)



- It is for parents to decide at what age it would be appropriate for their child to walk unaccompanied to school
- In the event of a child not being eligible to receive free transport and having to walk to school, it will be for parents to make suitable travel arrangements for their children between home and school. Within the community, parents have the option of sharing the school run. The Welsh Government recommends that parents investigate whether community groups can coordinate this activity
- Parents are advised to ensure that their children are aware of the All-Wales Travel Behaviour Code ('the Travel Code') – the Travel Code sets out the standards of behaviour learners should adhere to when travelling between home and school, regardless of the mode of travel

### **Head teachers**

5.57 Head teachers have a statutory responsibility to:

- Require pupils to comply with the Travel Code<sup>158</sup>; and
- Determine the standard of behaviour considered acceptable (where it is not determined by the governing body or the Welsh Ministers)<sup>159</sup>

It is recommended that head teachers:

- Incorporate the Travel Code into the School Behaviour Policy and ensure it is complied with
- Cooperate with the local authority, including other relevant agencies (such as the Police), should there be any breach of the Code or incidents concerning child protection issues

Under section 89(5A) of the Education and Inspections Act 2006<sup>160</sup>, head teachers have the power to impose penalties on learners who have breached the Travel Code outside of school premises – for example, when learners are out of school premises and unsupervised by teaching staff (such as on the walk between home and school).

<sup>158</sup> See section 89(2A) Education and Inspections Act 2006.

<sup>159</sup> See section 89(3A) Education and Inspections Act 2006.

<sup>160</sup> <http://www.legislation.gov.uk/ukpga/2006/40/section/89>



## Local Authorities<sup>161</sup>

5.58 Local authorities' responsibilities include:

- Identifying whether a walked route is available
- Identifying risks and putting in place mitigation where appropriate
- Working in partnership with partner organisations/agencies to complete risk assessments which address identified problems
- Consulting children and young people (including via other organisations/bodies)

A suggested Risk Assessment Checklist for local authorities is at Annex 2.

## Health and Safety Responsibilities of Educational Institutions

The Welsh Government would expect the collection of children at the school gates to be included in the health and safety policy which all education employers must have. The Governors Guide to the Law which includes a chapter on health and safety provides further guidance, which can be found at the link below:

<http://wales.gov.uk/topics/educationandskills/schoolshome/schoolfundingandplanning/schoolgov/schoolgovguide/?lang=en>

5.59 The Health and Safety at Work Act 1974<sup>162</sup> and associated regulations place overall responsibility for health and safety with the employer. The person or body that is considered to be the employer varies depending on the type of school :

- For community schools, community special schools, voluntary controlled schools, maintained schools, maintained nursery schools and pupils referral units the employer is the local authority. The Local Education Authority must provide health and safety guidance to those schools and ensure that staff who are delegated Health and Safety tasks such as risk assessment are trained and competent to carry out those tasks

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<sup>161</sup> Local authority means all relevant departments within the authority and is not limited to learner travel teams

<sup>162</sup> 1974 c.37 <http://www.hse.gov.uk/legislation/hswa.htm>

- For foundation schools, foundation special schools and voluntary aided schools, the employer is usually the governing body

For independent schools the employer is usually the governing body or proprietor

### **Responsibility – Schools, Local Education Authorities (LEAs), Governing Bodies**

- 5.60 The employer must have a health and safety policy and arrangements to implement it. The Health and Safety at Work Act 1974<sup>163</sup> applies.
- 5.61 Employers must assess the risk of all activities, introduce measures to manage those risks, and tell their employees about the measures. The Management of Health and Safety at Work Regulations 1999<sup>164</sup> apply
- 5.62 In practice, employers may delegate specific health and safety tasks to individuals (local authorities may delegate them to schools). But the employer retains the ultimate responsibility no matter who carries out the tasks. The employer should therefore maintain an audit track, making clear who is doing what and confirming that those tasks are being carried out
- 5.63 Education employers have health and safety responsibilities towards teachers, staff, pupils, visitors and volunteers including ensuring, so far as it reasonably practicable the health, safety and welfare of pupils in school and on off site visits.
- 5.64 Employees have responsibilities too. It should also be borne in mind that under the general law of negligence school teachers are required to treat and take care of a pupil under the age of 18 as a careful parent would (*Williams v Eady* [1893] 10 TLR 41, CA).

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<sup>163</sup> See section 2 of the 1974 Act

<sup>164</sup> S.I. 1999/32425. See regulation 3.