



## London Borough of Waltham Forest

# Schools Property Management Guidance – Part 1: Roles and Responsibilities

## Part 1: Roles and Responsibilities

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## PART 1: ROLES AND RESPONSIBILITIES

### Section 1: Education Capital and Planning – Who we are and what we do:

We spend approximately 90% of our time inside buildings and yet take it for granted that they are fit for purpose, wind and watertight. However, premises are complex resources and need to be invested in correctly in order to support the continued delivery of education.

The Education Capital and Planning Team (ECP) cover a number of key areas within the families' directorate. The teams function is to provide a technical client side function to all property investment decisions that affect the education service, which includes but is not exclusive as indicated below:

#### **Head of Commissioning Capital and Planning**

- To bring forward school expansion plans
- Work with existing partners to deliver year on year improvement re; quality and value of money of capital projects
- Develop policies, priorities and action plan
- To develop effective partnership within Waltham Forest including Academies and Free schools to deliver education (new school places) and maintain the school estate
- To take the lead on Commission capital works in relation to pupil projections.
- Arrange funding for expansion projects
- Prioritisation of funding allocation is clear and transparent
- To engage with neighbouring boroughs and Pan London agencies regarding pupil planning and meeting needs.
- Develop and commission the capital investment strategy for the education estate
- To engage and work collaboratively with the school community - particularly primary and secondary leadership teams
- Review and monitor the financial and physical delivery of the education capital programme
- Engage and work collaboratively with property and other colleagues to ensure value for money
- Create a system to accommodate inclusion of the education community in the delivery of the capital programme
- Develop innovative solutions to meet education needs including via non LA provision

#### **Schools Strategic Development Manager**

- To engage and work collaboratively with colleagues including planner, housing, highway and property colleagues to deliver good, robust, and quality built school environments.
- Co-ordinate the production of the brief
- Monitor the design works as it proceeds
- Commission (in conjunction with the Learning Environments Team and/or Academy/Free school providers) capital schemes identified to support the provision of additional pupil places.
- Detailed implementation of Growth commission report
- Opportunities and constraints to expand existing schools
- Opportunities and constraints of potential new school sites

### Planning and Research Officer

Supports the Head of Service on infrastructure requirements through the Local Development Framework process

The strategic planning and commissioning of school places including promoting choice and diversity and developing a market place of school provision

Ensure all the legislative and statutory changes to schools including enlargement, closures etc are observed.

identified to meet statutory responsibilities in respect of additional pupil places

All statutory response in respect of pupils numbers, school capacities, pupil projections etc.

Ensure the statutory School capacity (SCAP) returns are made to central government

### Schools Asset Manager

Supporting the Property Asset Management Team in the co-ordinating and consulting on the AMP prioritisation process and collecting data

Ensuring that the respective parties understand their roles and responsibilities

Advising schools on good practice

Supporting the Property Asset Management Team in advising on set standards and providing guidance on maintenance, technical, health and safety and other property-related matters

Support the Property and Asset Management team in the monitoring of schools' management of projects and their custodianship of premises

Maintain a strategic overview on Health and Safety procedures

Seek funding opportunities, supporting the education community to identify funding or bid opportunities and support applications.

To develop, inform and work collaboratively with the school community (particularly primary and secondary) to agree the schools Capital Repair Programme.

Develop and commission the Locally Controlled Voluntary Aided Programme (LCVAP)

Commission all capital works on the education estate.

Securing, allocation and monitoring of capital resources (including section 106 and CIL)

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## Section 2: Division of Responsibilities

The identity of the employer as the Duty Holder varies with the type of school. The table below, sourced from the HSE website, is an indication of where these responsibilities lay:

ACCOUNTABILITY FOR HEALTH AND SAFETY IN SCHOOLS		
School type		Employer
<b>Group 1</b>	Community schools	The local authority through the role of the Chief Executive. Devolved down to Governing Bodies and Head Teachers
	Community special schools	
	Voluntary controlled schools	
	Maintained nursery schools	
	Pupil referral units	
<b>Group 2</b>	Foundation schools	The governing body
	Foundation special schools	
	Voluntary aided schools	
	Independent schools	The governing body or proprietor
	Academies and free schools	The Academy Trust
	Independent private or fee-paying schools	The proprietor, board of trustees or equivalent

### Employers' Responsibilities

The Health and Safety at Work Act places a duty on every employer to 'ensure so far as reasonably practicable the Health, Safety and Welfare at work of all their employees'.

Employers must:

- Provide a safe place of employment;
- Provide a safe working environment;
- Provide a written safety policy and risk assessments;
- Provide and maintain safety equipment and safe systems of work;
- Ensure that materials used are properly stored, handled, used and transported;
- Provide information, training, instruction and supervision – ensuring staff are aware of instructions provided by manufacturers and suppliers of equipment;
- Look after the health and safety of others, for example the public;
- Talk to safety representatives.

## Employees' Responsibilities

Specific responsibilities fall to employees too, they must:

- Co-operate with their employer;
- Take care of their own health and safety, and that of other persons;
- Not interfere with anything provided in the interest of health and safety.

The Council has a duty to monitor how Head Teachers and Chairs of Governors are delivering their delegated duties and it is a requirement that records are kept in an asset register. This is managed via the CONCERTO Asset Management Information System. This System will be used as a common platform for all asset management planning (AMP) matters within the council.

### Duty of care

*"An occupier of premises owes a duty to take that care that in all the circumstances of the case is reasonable to see that a person, and the person's property, on the premises, and property on the premises of a person, whether or not that person personally enters on the premises, will be reasonably safe in using the premises.*

*"(This) duty of care ... applies in relation to the condition of the premises, activities on the premises, or conduct of third parties on the premises."*

**Justice Martinson, 2008, in Wilde v. The Cambie Malone Corporation:**

## Responsibility of Head Teacher

The school and the Local Authority have a joint responsibility for suitability, sufficiency and condition of school buildings.

The Head Teacher has day-to-day responsibility for the deployment of staff and financial resources of which premises management including the planning of building works is an integral part of this responsibility. Both teaching and support staff have a role to play also, whether by job description responsibilities e.g. identifying and reporting building disrepairs, or more general "duty of care" responsibilities for health and safety.

Staff, therefore share common responsibilities to effectively operate and manage the buildings they occupy. Essentially, Head Teachers and their delegated responsible officers fulfil the role of 'responsible custodians' of the council premises. This involves:

- ensuring that the site and buildings are managed in an appropriate manner and users/staff operate in a healthy and safe environment
- identifying the future premises needs of the school through the school improvement plan
- working in partnership with the LA, Diocesan bodies or Academy Trust to prepare and implement the school-based AMP
- working in partnership with the LA, Diocesan bodies or Academy Trust to develop and deliver LA Capital or EFA funded projects
- planning, budgeting and managing those works and projects for which they are responsible where appropriate, making the building and facilities available and safe for extended community use

Schools can also undertake their own building projects utilising delegated / devolved budgets or a combination of funding. They must, however, ensure that projects have appropriate approval, including that from the LA, and are implemented safely.

## The Governing Body

The Governing Body should be focused on the strategic role of overseeing the use, maintenance and development of the school premises and facilities so as to support the priorities in the school development plan and school improvement.

The Governing Body should also be aware of:

- The legal responsibilities relating to its overall control and use of the premises.
- The development of the school's facilities to ensure they take into account the LA's strategic approach to delivering education
- Legal responsibilities relating to the overall control and use of the premises under the School Premises Regulations 1999.
- Making property related decisions. However it can choose to delegate these powers to the Premises Committee.

## The Local Authority (LA)

With regard to property matters, Contracts and Compliance Team, Health & Safety Team and the Education Capital & Planning Team will work with the schools to monitor of health and safety by undertaking regular inspections/checks. The Health and Safety Team will provide mandatory training for managing buildings safely for responsible staff within the Council.

In some cases, the Contracts and Compliance Team may, after notification to the school, undertake essential work that the governing body has failed to carry out, and recharge the school the full cost. These include areas such as:

- Health and safety work, or capital expenditure for which the LBWF is liable, where funds have been delegated to the governing body for such work.
- Making good defects in building work funded by capital spending from the School's budget share.
- Work necessary to safeguard the fabric of the building and to ensure the continuing availability of the premises for use by the School..

## Diocesan Authorities

Diocesan authorities are responsible for:

- Sharing plans for Voluntary-Aided (VA) premises development aspirations
- Contributing to the development of authority wide priorities, in particular, as they affect VA schools
- Co-operating in the use of the AMP
- Where working on behalf of governors in voluntary school projects, planning and budgeting in line with AMP
- Ensuring school compliance with statutory obligation
- Producing evidence of prioritisation of capital funding that supports AMP priorities in line with DfE requirements and statutory obligations.

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## Section 3: Legal Requirements

It is a requirement by law to ensure that Head Teachers and Governors, as employers, comply with the Health and Safety at Work Act 1974, which states; *“It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees”*.

The Health and Safety at Work Act 1974 (often referred to as HASAW or HSW) provides the legal framework to promote, stimulate and encourage high standards of health and safety in places of work. Everyone has a duty to comply with the Act, including employers, employees, trainees, self-employed, manufacturers, and suppliers. The Act contains sections and schedules, and below is a summary of some of the more relevant parts of the Act.

Schools are required to comply with the Occupier’s liability act

In this Act “occupier” means a person who

- (a) is in physical possession of premises, or
- (b) has responsibility for, and control over, the condition of premises, the activities conducted on those premises and the persons allowed to enter those premises and, for this Act, there may be more than one occupier of the same premises; “premises” includes land and structures.

### Equality Act 2010 - Disability and Discrimination

The Equality Act 2010 supersedes the Disability Discrimination Act 1995 along with the amendment “Reasonable Adjustments 2012”. The Equality Act provided rights for disabled people, with the act defining a disabled person as someone having ‘a physical or mental impairment which has a substantial and long-term adverse effect on a person’s ability to carry out normal day to day activities’.

**Equalities Act, 2010** places the legal duty on the Local Authorities to have an Accessibility Strategy and Action Plan and to keep the plan under review during the period to which it relates.

- a) increase the extent to which disabled pupils can participate in the school’s curriculum;
- b) improve the physical environment of the school to support inclusion;
- c) improve the delivery to disabled pupils of information which is readily accessible to pupils who are not disabled.

**1.1.** Each individual school must also have an ‘Accessibility Plan’ that over a prescribed period is a plan to ensure the school; meets their duty to ;

- a) Increase the extent to which disabled pupils can participate in the school’s curriculum
- b) improve the physical environment of the school to support inclusion
- c) improve the delivery to disabled pupils of information which is readily accessible to pupils who are not disabled

Having the plans in place and delivering the plan within a reasonable time is key to ensuring that the authority remains compliant with the above act

wheelchair users  
 ambulant disabled people  
 elderly people  
 those with poor dexterity or little strength  
 those who lack comprehension



those with impaired vision  
those with impaired hearing,

In addition barriers to access are likely to arise for those who are  
of excessively large or small stature  
mothers to be in the later stages of pregnancy  
parents and others in charge of small children, particularly those using pushchairs  
temporarily injured  
sick or ill  
emotionally distressed or unstable

LAs and schools are required to prepare accessibility strategies and accessibility plans respectively for increasing, over time, the accessibility of schools and education for disabled pupils.

## Resources

School should use their delegated budget for building works including the use of devolved capital.

It is essential that the maintenance of these buildings is kept to a high standard which will support the LA and Head Teachers and Governing Bodies to prioritise funding in the right place at the right time.

## Maintenance, Plant and Equipment Testing

As a result of delegation of funding under the Financial Scheme for Schools, Governors have responsibility for those elements of building maintenance covered by statute. Schools must arrange for the servicing and testing to be undertaken at the appropriate time and frequency. For further information Health and Safety Team will be able to provide advice and guidance where required.

The Council's technical partners, NPSL can meet all of these requirements through a single service level agreement.

All contractors employed must be recognised by an appropriate industry standards body (for example from construction line or be CHAS registered) to secure safe maintenance and management through competent, trained and qualified operatives and contractors.

## Responsible persons

The responsible person within schools is the Head Teacher as delegated by the Governing Body. The responsibility for the day-to-day management of fire safety may be delegated to a designated competent person, but the overall responsibility stays with the people named above.

## The Workplace Health, Safety and Welfare Regulation 1992

Regulations outline the minimum standards that all workplaces should comply with to ensure the health, safety and welfare of staff. Schools are subject to additional Schools Premises Regulations that go further than the regulations that affect other workplaces for certain issues, such as indoor temperature. Some parts of the Health, Safety and Welfare Regulations are not applicable to school classrooms, such as the requirements for minimum working space; these areas are identified with the Education Funding Agency Design Guides.

The majority of the regulations do, however, apply, and are concerned with health issues such as having suitable and sufficient lighting, waste removal and adequate ventilation; safety issues such as

prevention of falls from height, management of traffic in and around the premises, provision of adequate flooring and safety of doors and gates; welfare issues such as the provision of a rest area for pregnant women and nursing mothers, suitable facilities for changing clothing if required, provision of suitable drinking water and provision of suitable toilet facilities.

## Monitoring Standards of Health and Safety

Schools, in common with any other workplace, need to monitor health and safety within the workplace by undertaking regular inspections of the premises, investigation and analysis of accidents and audit of systems and procedures. Noise levels below the statutory limits should also be minimised wherever possible, particularly where the level is likely to affect the effectiveness of the teaching environment.

## Permits to Work

High risk activities in schools may, on occasion, require very strict controls. Control can be applied using a permit to work system. A permit will identify the safe conditions and requirements that must be present before any work can be started and must be signed by a senior manager. See **Section 2 Asbestos** for a permit to work template.

## Conclusion

It is everybody's responsibility to make Health & Safety arrangements work. Any member of staff noticing a failure to comply with the policy should immediately report the circumstances to their line manager. If no action is taken, then, guidance should be sought from the Health and Safety Team.

If an Improvement or Prohibition Notice is served by an Enforcing Officer to a Head Teacher, they should immediately advise the appropriate Executive Director, the Health and Safety Team, and Schools Asset Manager in order to ensure that the LA is provided support to ensure that School and LA remain compliant and meet the requirements of the notice.

This Schools Health and Safety Policy will be monitored by the Health and Safety Team to assess its effectiveness and to determine whether satisfactory standards of safety performance are being achieved. Monitoring can be achieved by accident/incident reporting, safety inspections, audits etc. The Health and Safety Team will undertake Health and Safety Audits.

Suggestions by any member of staff to improve standards of health and safety are welcomed by the Head teacher and Governing Body.

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