

OEAP EG: Status & Remit

Status

“**OEAP Employer Guidance**” has been developed with the intention that it can be adopted either as a whole (or in part) to fulfil the function of “employer’s guidance”. It enables and supports employers in fulfilling the legal requirement that they **must** supply their employees with the guidance necessary to carry out their duties in line with regulatory requirements and the expectations of current good practice. Where an employer wishes to use the guidance as their “employer guidance”, it must be formally adopted to give it this status.

In particular, the guidance sets out expectations with regard to a specialist aspect of an employer’s response to discharging their legal duties under Health and Safety legislation, as well as employment and criminal law. However, this has to be viewed in a more general context of priorities, in this order:

1. Obey the law.
2. Fulfil the requirements of your employer.
3. Work within good practice expectations as set out by professional organisations and national governing bodies.

Remit

OEAP Employer guidance applies to most situations where adults acting in the course of their employment take responsibility for children and young people taking part in learning and recreational activities in an environment that is different from where the young people are usually based. It therefore applies when organising and supervising children and young people participating in off-site activities and visits, as well as when taking part in an on-site activity but in the outdoors.

For the purposes of this guidance, a visit is defined as:

*“Any occasion when a young person takes part in a structured and employee-led learning activity which is carried out beyond the boundary of the normal operational base, but **excepting** the following:*

- *Where establishments operate on a split site;*
- *Work experience as defined in the publication **"Work Experience: a guide for secondary schools"** (DfES 2002).*

Those activities provided as part of an establishment’s physical education programme should only be treated as visits in so far as the journey to and from the venue requires the same risk management processes to be applied. The activity supervision should be that required or recommended by specialist PE guidance, such as that provided by the employer and AfPE.

Since 2006, the DCSF has strongly promoted all aspects of outdoor learning through the **Manifesto for Learning Outside the Classroom**. Therefore MOL guidance should also be applied to some aspects of lesson planning for activities that take place “*on-site but out of doors*”. In the manifesto, the term “Learning Outside the Classroom (LOtC)” is used to describe the involvement of young people in a range of learning activities “*outside their immediate and accustomed environment when they learn from first-hand experiences*”.

While the language used in the manifesto is that most commonly associated with a formal educational establishment such as a school or college, the aspirations of the manifesto are relevant across the whole range of establishments and settings in which young people participate in learning activities.

The vision for the Manifesto was expressed as:

...“every young person should experience the world beyond the classroom as an essential part of learning and personal development, whatever their age, ability or circumstances”

This vision is reflected in the curriculum design aspirations of the QCA and fully endorsed by OFSTED (see Ofsted report “Learning Outside the Classroom – How Far Should You Go?”)

Foundation Principles

Under the Health and Safety at Work Act (1974), health and safety responsibilities lie with the employer. This might be a Local Authority (LA) or Governing Body or a Management Panel. An employer has the legal responsibility to carry out the duties imposed by the Act. However, employers can delegate the tasks necessary to discharge these duties, even though the overall responsibility for health and safety rests with the employer.

MOL guidance builds on the foundation provided by the following publications:

- “Health and Safety of Pupils on Educational Visits “ (DFES1998)
- “Health and Safety: Roles and Responsibilities” (DfES 2001)
- “Standards for LEAs in Overseeing Educational Visits” (DfES 2002)

While organisational structures for providing education have undergone significant change since those documents were published, the principles that support safe provision have not. In particular, the widespread adoption and promotion of accredited and employer-led Educational Visit Coordinator (EVC) training by the great majority of employers has had a major impact on off-site activity provision in almost all establishments. This development (and more recently the promotion of accredited and employer-led Visit Leader training) provides a repeated point of focus within OEAP guidance.

In anticipation of the likelihood that organisational structures for educational provision will continue to evolve, OEAP guidance is designed to work across a wide range of employer contexts and settings, but will be particularly useful in local authority contexts such as associated with departments for Children’s Services, or similar contexts and settings where the employer is required to carry similar responsibilities.

This guidance will also be relevant to managing groups of vulnerable adults.

Other sources of guidance (e.g. those issued by government departments and professional associations) may be useful in reinforcing or clarifying understanding, but in terms of legal expectation, employer guidance will prevail. It is therefore of critical importance for those using this guidance to be sure in their understanding of “who is my employer”? This may not be quite as simple as it seems ...

- The local authority is the employer for community schools, community special schools, voluntary controlled schools, maintained nursery schools and pupil referral units.
- The employer is usually the governing body for trust schools, city technology colleges, foundation schools, foundation special schools, academies and voluntary aided schools, However, it may be the case that these establishments have chosen to opt into their local authority visit guidance and its supporting systems as if the local authority were the employer.
- The employer is usually the governing body or proprietor for independent schools,
- The local authority is the employer for Children’s Services settings such as PRUs, statutory youth groups, Music Service, Social Services, Looked After Children, LA Outdoor Centres etc. There may be other examples.
- The increasing use by local authorities of commissioned services should be on the basis that those commissioned should be tied by legal agreements to follow local authority guidance, as if the local authority were the employer.

Summary

This guidance provides the key reference for sound planning for learning and recreational activities that involve taking groups of children and young people away from their usual operational base. It should be implemented when an establishment or setting uses places such as:

- the establishment's own grounds
- the local environment
- places further a field e.g. visits to local libraries, theatres and museums etc.
- residential venues
- learning ventures abroad

If this guidance has been adopted as your employer's guidance and your employment involves any one of the following:

- **direct supervision of young people undertaking experiences beyond the boundary of their normal operational base;**
- **direct supervision of young people undertaking experiences that fall within the remit of Learning Outside the Classroom (LOtC);**
- **facilitating experiences for young people undertaking experiences beyond the boundary of their normal operational base;**
- **deploying staff who will supervise or facilitate experiences of or for young people undertaking experiences beyond the boundary of their normal operational base;**

you must ensure the young people are supervised in accordance with the contents of this guidance, regardless of whether or not the activities take place within or outside of normal working hours, including weekends and holiday periods.

AS OF 26.4.11, WORCESTERSHIRE HAS ADOPTED OEAP EMPLOYER GUIDANCE AS WORCESTERSHIRE EMPLOYER GUIDANCE.