

# Standards for School Premises

Consultation  
Document

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# 1: Introduction

- 1.1 Sebastian James, Group Operations Director for Dixons, led an independent review of the Department for Education's approach to Capital. The review methodology included extensive consultation and a call for evidence. His report *Review of Education Capital: Sebastian James, April 2011* was published on 8 April and a copy of the full report is available on the Department's e-consultation website ([www.education.gov.uk/consultations/](http://www.education.gov.uk/consultations/)).
- 1.2 The Review proposes a new approach to the allocation and use of capital funding. The Department held a consultation on the implementation of the Review's recommendations, which closed on October 11.
- 1.3 One of the recommendations, which the Secretary of State has accepted in principle, for consultation at a later stage was

*That the Department revises its school premises regulations and guidance to remove unnecessary burdens and ensure that a single, clear set of regulations apply to all schools. The Department should also seek to further reduce the bureaucracy and prescription surrounding BREEAM assessments.*

- 1.4 That part of the recommendation concerning BREEAM assessments is being addressed separately. This consultation aims to seek views on revisions to the regulations governing school premises, and on a reduction in the amount of guidance produced by the Department.

# 2: Background

## Legislation applying to school premises only

- 2.1 The Education Act 1996 places a duty on the Secretary of State to prescribe standards for the premises of all maintained schools in England and Wales. The current standards are set out in the Education (School Premises) Regulations 1999 (SPRs) and they apply to all existing and new schools maintained by a local authority<sup>1</sup>.
- 2.2 Similarly, the Education Act 2002 empowers the Secretary of State to prescribe standards about the premises of independent schools including Academies. These are covered by Part 5 of The Education (Independent School Standards) (England) Regulations 2010 (ISSs). Part 3 of those regulations covers the welfare, health and safety of pupils and includes a standard on fire safety.

## Legislation applying to different types of buildings, including schools

- 2.3 There is a substantial amount of other legislation that applies to all buildings, including schools. Of particular relevance here are:
  - The Health and Safety at Work Act 1974 (HSWA);
  - The Workplace (Health, Safety and Welfare) Regulations 1992, together with its Approved Code of Practice and Guidance (collectively – WRs);
  - The Equality Act 2010 (EQA);
  - The Regulatory Reform (Fire Safety) Order 2005 (RRFO).
- 2.4 As with other building types, developments at schools are bound by normal planning controls. Similarly, construction work at schools is subject to approval under the Building Regulations 2010.

## Wider Context

- 2.5 The HSWA, and the regulations made under it (e.g. WR), are aimed at securing the health, safety and welfare of employees. They also aim to protect others against risks to their health and safety (but not welfare) arising from the activities of a work undertaking. The HSWA and the regulations made under it apply if any organisation (including a voluntary organisation) has at least one employee.

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<sup>1</sup> The Regulations apply to nursery, community, community special, foundation, foundation special and voluntary schools and to pupil referral units. The premises of non-maintained special schools, and approved independent schools suitable for the admission of children who have special educational needs must conform to some of the standards contained within them.

- 2.6 Compliance with this legislation will go a long way towards ensuring the physical safety and well-being of pupils. Schools also need to ensure that premises are conducive to education, and that pupils are provided with facilities to deliver their education (such as playing fields etc.), or to ensure that pupils' specific welfare needs are met. Furthermore, where health, safety and welfare regulations require specific facilities to be provided for employees that are not shared with pupils, it does not follow that pupils will be provided with comparable facilities. Sometimes, of course, the needs of employees and pupils are different.
- 2.7 School premises regulations are therefore needed to ensure that the specific needs of pupils are met – particularly on issues considered to be high risk because of their impact on welfare, or on education, such as washroom facilities, lighting and acoustics. However, they do not need to duplicate other legislation that adequately covers particular areas. This logic is followed in deciding which existing regulations are retained, simplified or removed. Wherever possible, where they are retained, they are also set out more clearly than before.
- 2.8 Our objective therefore is to revoke unnecessary regulations, streamline those that remain and produce one, clear set of requirements for school premises that apply to all types of schools. This should have the effect of minimising bureaucracy and greatly reducing the burdens on schools. We expect that the regulations will come into force in April 2012 for maintained schools, and September 2012 for independent schools (alongside other changes to the ISSs)
- 2.9 The regulations that we propose to retain, simplify or remove are set out below. If you can identify that there are risks to pupils' welfare or adverse effects on education through making these changes, or if you think that they could be expressed differently, or that the proposals do not go far enough to remove unnecessary regulation, please elaborate in the appropriate comments boxes in the consultation response form.

# 3: We propose to retain and refine the following regulations

## Acoustics (ISSs & SPRs)

- 3.1 The SPRs require that each room or other space in a school building shall have the acoustic conditions and insulation against disturbance by noise appropriate to its normal use, while the ISSs say that sound insulation and acoustics should allow effective teaching and learning. Good acoustic conditions are essential to education, particularly for children and young people and those with hearing impairments, communication difficulties or for whom English is a second language. In a school with a good acoustic environment people will experience good sound quality (enabling them to hear clearly and concentrate on whatever activity they are involved in) and minimal disturbance from unwanted noise (such as from activities in adjacent areas, ventilation fans or road traffic). Weakening requirements in this area could have an adverse impact on educational outcomes and regulation should be retained.

### Proposed regulation

#### *Acoustics*

*The acoustic conditions and sound insulation of the teaching accommodation must be suitable, having regard to the nature of the activities which normally take place therein.*

**Question: Do you agree that this adequately covers the requirements for acoustics? If not, why not?**

## Water supplies (ISSs & SPRs)

- 3.2 The ISSs require that water supplies should comply with the provisions of regulation 22 of the SPRs. This requires that water supplies should be adequate, wholesome and include a supply of drinking water, and that hot water supplies to baths and showers should not exceed 43°C. The provision and accessibility of drinking water for staff is covered by the WRs, but no other legislation covers supplies for pupils. Similarly no other legislation covers hot and cold water supplies to pupils' toilets, baths or showers, nor addresses the risk to children of scalding where temperatures are higher than 43°C. Regulation in this area should therefore be retained.

## **Proposed regulation**

### *Water supplies*

- 1) *Suitable drinking water facilities must be provided.*
- 2) *The facilities provided under paragraph (1) will not be suitable unless –*
  - (a) *they are readily accessible at all times when pupils are on the premises;*
  - (b) *they are separate from the toilet facilities; and*
  - (c) *the water is wholesome.*
- 3) *Toilets and urinals must have an adequate supply of cold water and washing facilities must have an adequate supply of hot and cold water.*
- 4) *Cold water supplies that are not suitable for drinking must be clearly marked as such.*
- 5) *The temperature of hot water at the point of use must not pose a scalding risk to users.*

**Question: Do you agree that this adequately covers the requirements for water supplies? If not, why not?**

## **Boarding accommodation (ISSs & SPRs)**

- 3.3 These regulations cover sleeping and living accommodation, washrooms, sick rooms and staff accommodation. Currently the ISSs refer to the National Minimum Standards for Boarding Schools (NMS), while the NMS (2011) refer to the SPRs for detailed requirements. Since requirements are not set out elsewhere, regulations and supporting information on boarding accommodation should be retained in some detail until the NMS are revised.

**Question: Do you agree that in future we should seek to bring the premises standards for boarding schools into the NMS? If not, why not?**

## **Proposed regulations**

### ***Standards for boarding schools***

#### *Sleeping accommodation*

- 1) *Suitable sleeping accommodation must be provided for boarding pupils.*
- 2) *Where pupils are aged 8 years or over, sleeping accommodation for boys must be separate from sleeping accommodation for girls.*



### *Toilet and washing facilities*

- 1) *Suitable toilet and washing facilities must be provided for boarding pupils, which must be adjacent to or reasonably accessible from the sleeping accommodation.*
- 2) *Separate toilet facilities must be provided for boys and girls, except where they are provided for use by one pupil at a time.*

### *Living accommodation*

- 1) *Suitable living accommodation must be provided for boarding pupils for the purposes of private study outside school hours and for social purposes.*

### *Accommodation for the preparation and consumption of meals*

- 1) *Suitable accommodation must be provided for the preparation and consumption of meals by boarding pupils.*
- 2) *Accommodation provided under paragraph (1) may be situated in the main school provided it is adjacent to or reasonably accessible from the boarding accommodation.*

### *Sick rooms*

- 1) *Suitable accommodation (including toilet facilities) must be provided in order to cater for the needs of boarding pupils who are sick or injured.*

### *Staff accommodation*

- 1) *Suitable accommodation (consisting of accommodation in which meals may be taken, living accommodation and sleeping accommodation) and suitable toilet and washing facilities must be provided for residential staff, which must be separate from the accommodation and facilities provided for boarding pupils.*

**Question: Do you agree that these regulations adequately cover the requirements for boarding schools? If not, why not?**

# 4: We propose to simplify the following regulations

## Washrooms (ISSs & SPRs)

- 4.1 Detailed requirements for washrooms related to different age groups and numbers of pupils, including the numbers of toilets and washbasins, are set out in regulation 3 of the SPRs. The relevant regulation in the ISSs refers to the SPRs for detailed requirements. The requirements for pupils are not set out in any other legislation (the WRs only cover washroom provision for staff) and so this regulation should be retained. However, the way it is set out at present lacks some clarity and it should be simplified. In addition, a number of schools have provided toilets for use by both male and female pupils over the age of 8 years, even though this is not currently allowed by the regulation. This mirrors what happens in the home and other settings and, in a school, can lead to a reduction in the overall numbers required. Provision should therefore be made for unisex toilets, if appropriately designed, in a revised regulation.

### Proposed simplified regulation

#### *Toilet and washing facilities*

- 1) *Subject to paragraph (3), suitable toilet and washing facilities must be provided for the sole use of pupils.*
- 2) *Separate toilet facilities must be provided for boys and girls aged 8 years or over, except where they are provided for use by one pupil at a time*
- 3) *Where separate facilities are provided under paragraph (1) for pupils who are disabled, they may also be used by staff and visitors who are disabled.*
- 4) *Suitable changing accommodation and showers must be provided for pupils aged 11 years or over who receive physical education.*

**Question: Do you agree that this adequately covers the requirements for toilet and washing facilities? If not, why not?**

## Medical facilities (ISSs & SPRs)

- 4.2 All schools should have accommodation for the medical examination and treatment of pupils and appropriate facilities for pupils who are ill or injured. This requirement is not covered in any other legislation. In addition, some children have long-term medical conditions which require regular access to private space to enable them to manage it, and this regulation ensures that disabled children do not have to go off-site to have their needs met. For these reasons the regulation should be retained. Currently the relevant regulation in

the ISSs refers to regulation 5 in the SPRs for detailed requirements, but regulation 5 lacks some clarity and should be simplified.

### **Proposed simplified regulation**

#### *Medical accommodation*

- 1) *Suitable accommodation must be provided in order to cater for the medical and therapy needs of the pupils, including accommodation for –*
  - (a) *the medical and dental examination and treatment of pupils; and*
  - (b) *the short term care of sick and injured pupils, which includes or is adjacent to a toilet facility.*
- 2) *The accommodation provided under paragraph (1) may be used for other purposes (apart from teaching) provided it is always readily available to be used for its primary purpose.*
- 3) *Where a school caters for pupils with complex needs additional medical accommodation must be provided which caters for those needs.*

**Question: Do you agree that this adequately covers the requirements for medical facilities? If not, why not?**

### **Health, Safety and Welfare (ISSs & SPRs)**

- 4.3 Regulation 17 of the SPRs requires that every part of a school shall be such that the health, safety and welfare of occupants are reasonably assured. It also covers safe means of escape in case of fire. Similar requirements are covered in three of the premises regulations in the ISSs. While compliance with the HSWA and WRs will go a long way towards ensuring the health and safety of pupils in schools, it will do nothing to ensure that their specific welfare needs are met. Regulation in this area should therefore be retained, but simplified.

### **Proposed simplified regulation**

#### *Health, safety and welfare*

- 1) *School premises and the accommodation and facilities provided therein must be maintained to a standard such that, as far as reasonably practicable, the health, safety and welfare of the pupils is ensured.*

**Question: Do you agree that this adequately covers the requirements for health, safety and welfare? If not, why not?**

### **Lighting (ISSs & SPRs)**

- 4.4 Both regulations require that classrooms and other parts of a school should have lighting appropriate to their normal use, and the ISSs refer to the SPRs for minimum levels of illuminance and a maximum glare index. Poor lighting can result in slower reading and diminished concentration, affecting children's ability to learn, and can cause eye strain and, in the long term, weakened vision. Regulation should be retained in this area, but simplified to require that lighting

levels are appropriate to suit the activities taking place, while not prescribing the level or the source of light.

### **Proposed simplified regulation**

#### *Lighting*

- 1) *The lighting in each room or other internal space must be suitable, having regard to the nature of the activities which normally take place therein.*
- 2) *External lighting must be provided in order to ensure safe entry to and exit from the school for pedestrians before and after daylight hours.*

**Question: Do you agree that this adequately covers the requirements for lighting? If not, why not?**

### **External space (ISSs & SPRs)**

- 4.5 Regulation 24 of the SPRs requires that team game playing fields shall be provided which satisfy specified minimum areas (set out in Schedule 2), based on pupil numbers and ages. The ISSs require that there are appropriate arrangements for providing outside space for pupils to play safely. The SPRs impose rigorous standards for playing field areas that maintained schools can find difficult to satisfy. Under the ISSs, Academies and Free Schools are treated differently. Regulation should be retained in this area, but the requirements should be simplified and they should apply to all types of school. By doing this it will not become easier to dispose of playing fields. Section 77 of the School Standards and Framework Act 1998 will continue to protect school playing fields as robustly as it does now, as all applications for disposal will require the Secretary of State's consent, including those in circumstances currently covered by a general consent.

### **Proposed simplified regulation**

#### *Outdoor space*

- 1) *Suitable outdoor space must be provided in order to enable –*
  - (a) *physical education to be provided to pupils in accordance with the school curriculum; and*
  - (b) *pupils to play outside safely.*

**Question: Do you agree that this adequately covers the requirements for external space? If not, why not?**

The new regulations are listed together in **Annex A**.

# 5: We propose removing the following regulations

## Regulations set out in both ISSs and SPRs

### Ancillary facilities – food preparation and service

- 5.1 Both sets of regulations make reference to this area, though the requirements are slightly different. The ISSs require that where food is served, there are adequate facilities for its hygienic preparation, serving and consumption. The SPRs require that there should be adequate facilities for the preparation and serving of food and drinks, but do not mention dining space. Food hygiene is covered by the Food Hygiene (England) Regulations 2006 and does not need duplicating in premises regulations. Sufficient guidance on what are adequate and appropriate facilities for preparing and consuming food will be provided in the area guidelines and revised guidance, so regulation here is unnecessary.

### Load bearing structures

- 5.2 Both sets of regulations require that load bearing structures in schools are safe. For new schools, and new construction in schools, this requirement is already covered in part A of the Building Regulations, and maintaining such structures in a safe condition is adequately covered by the WRs. In addition, the Building Act 1984 gives local authorities powers to deal with defective premises (Section 76) and (Section 77) dangerous buildings (see **Annex B** for details of enforcement powers). We therefore consider that a school-specific regulation is unnecessary.

### Weather protection

- 5.3 Both sets of regulations require that school buildings should provide reasonable resistance to penetration by rain, snow and wind and to moisture arising from the ground. For new schools, and new construction in schools, this requirement is already covered in the Building Regulations, and maintaining buildings in good repair is adequately covered by Regulation 5 of the WRs, *Maintenance of workplace, and of equipment, devices and systems*<sup>2</sup>. We therefore consider that a school-specific regulation is unnecessary.

### Fire safety and emergency evacuations

- 5.4 Fire safety in schools, including the fire resistance of building elements and provision of adequate means of escape in case of fire, is covered in Part B of the Building Regulations, but more generally by the RRFO<sup>3</sup> (as cited in Part 3 of the ISSs). To duplicate the requirements of the RRFO in school premises regulations is unnecessary.

<sup>2</sup> 5 (1) *The workplace and the equipment, devices and systems to which this regulation applies shall be maintained (including cleaned as appropriate) in an efficient state, in efficient working order and in good repair.*

<sup>3</sup> In particular, Part 2 *Fire Safety Duties*.

## Heating

- 5.5 Heating and cooling requirements are adequately covered in Regulation 7 of the WRs, *Temperature in indoor workplaces*<sup>4</sup>. The Approved Code of Practice (ACOP) accompanying this regulation sets minimum temperatures for rooms, differentiating between those that accommodate normal levels of activity and those where more active work takes place (as do the SPRs), and advises on local heating and cooling where needed. Therefore a school-specific regulation is unnecessary.

## Ventilation

- 5.6 Ventilation requirements are adequately covered in Regulation 6 of the WRs, *Ventilation*<sup>5</sup>. The ACOP accompanying this regulation covers natural and mechanical ventilation, while associated guidance advises on fresh air supply rates and includes references to other guidance on ventilation related matters. Therefore a school-specific regulation is unnecessary.

## Drainage

- 5.7 Both sets of regulations require that a school should have an adequate drainage system for hygienic purposes and the disposal of waste water and surface water. For new schools, and new construction in schools, this requirement is already covered in part H of the Building Regulations, and maintaining drainage systems from toilets in working order is adequately covered by the WRs. In addition, where drainage is, or becomes unsatisfactory, Section 59 of the Building Act 1984 empowers a local authority to require the building owner to make a satisfactory provision for drainage. A school-specific regulation is therefore unnecessary.

**Question: Do you agree that these regulations, which are common to both the ISSs and SPRs, can be removed? If not, why not?**

## Regulations contained in the ISSs only

### Security

- 5.8 This regulation requires independent schools and Academies to have adequate security arrangements for their grounds and buildings. There is not such a specific regulation in the SPRs, though the requirement to reasonably assure the health, safety and welfare of occupants of every part of a school and its land in aspects other than fire safety (covered elsewhere) is broad enough to include the security of pupils. We believe that our revised health, safety and welfare regulation is also broad enough to cover it and so a specific regulation on security is unnecessary.

### Shared premises

- 5.9 This regulation requires that where the premises housing an independent school are also used for other, non-school purposes, the health, safety and welfare of pupils are safeguarded and that their education is not interrupted by other users. As with security, we believe that our revised health, safety and welfare regulation is broad enough to cover this and that a specific regulation on shared use is unnecessary.

<sup>4</sup> 7 (1) *During working hours, the temperature in all workplaces inside buildings shall be reasonable.*

<sup>5</sup> 6 (1) *Effective and suitable provision shall be made to ensure that every enclosed workplace is ventilated by a sufficient quantity of fresh or purified air.*

## Access

- 5.10 This regulation requires independent schools and Academies to allow all pupils, including those with special educational needs and disabilities, to enter and leave their schools in safety. We believe that this issue is adequately covered in other legislation, including the WRs, EQA<sup>6</sup> and RRFO, and that a school-specific regulation is unnecessary.

## Cleanliness

- 5.11 Independent schools and Academies are required to maintain classrooms and other parts of the school in a tidy, clean and hygienic state. There is no equivalent requirement for maintained schools, but Regulation 9 of the WRs, *Cleanliness and waste materials*<sup>7</sup>, cover most spaces in schools. The exceptions would be pupils' washrooms and external space, but these will continue to be regulated under the new premises regulations. Therefore a separate, school-specific regulation on cleanliness is unnecessary.

## Standard of decoration

- 5.12 Independent schools and Academies are required to have a satisfactory standard and adequate maintenance of decoration. There is not a similar requirement for maintained schools and even the WRs do not cover this, though the WRs do cover cleanliness and condition. Any risk to pupils of removing this requirement is minimal and therefore a specific regulation on decoration is unnecessary.

## Furniture and fittings

- 5.13 The furniture and fittings in independent schools and Academies should be appropriately designed for the age and needs of pupils. Regulation 11 of the WRs covers workstations and seating for employees<sup>8</sup>, but this would not extend to furniture and fittings for pupils. However, there is no equivalent requirement for maintained schools and any cases where furniture and fittings are so inappropriate as to risk pupils' health and safety would be covered by the revised welfare regulation. Therefore any risk to pupils of removing this requirement is minimal and a specific regulation on furniture and fittings is unnecessary.

## Flooring

- 5.14 Independent schools and Academies should have appropriate flooring in good condition. There is no equivalent requirement for maintained schools, but most spaces in schools are adequately covered by the Regulation 12 of the WRs, *Condition of floors and traffic routes*<sup>9</sup>. Any risk to pupils of removing this requirement is minimal and therefore a specific regulation on flooring is unnecessary.

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6 For example, Schedule 10, *Accessibility for disabled pupils*.

7 9 (1) *Every workplace and the furniture, furnishings and fittings therein shall be kept sufficiently clean.*

8 11 (1) *Every workstation shall be so arranged that it is suitable both for any person at work in the workplace who is likely to work at that workstation and for any work of the undertaking which is likely to be done there.*

11 (3) *A suitable seat shall be provided for each person at work in the workplace whose work includes operations of a kind that the work (or a substantial part of it) can or must be done sitting.*

9 12 (1) *Every floor in a workplace and the surface of every traffic route in a workplace shall be of a construction such that the floor or surface of the traffic route is suitable for the purpose for which it is used.*

12 (2) (a) *the floor, or surface of the traffic route, shall have no hole or slope, or be uneven or slippery so as, in each case, to expose any person to a risk to his health or safety;*

## Size of classrooms

- 5.15 Classroom size should be appropriate to allow effective teaching and no area of the school should compromise health or safety. The revised health, safety and welfare regulation, and the revised area guidelines<sup>10</sup>, will reasonably assure that the space provided in schools is such that no part of a school compromises the health and safety of pupils. This regulation, which applies to independent schools only, is therefore no longer needed.

**Question: Do you agree that these regulations in the ISSs can be removed?  
If not, why not?**

## Regulations contained in the SPRs only

### Staff accommodation

- 5.16 The regulation on staff accommodation includes head teachers' rooms and spaces for teachers to work in (other than in teaching accommodation) and to socialise. As noted earlier<sup>11</sup>, Regulation 11 of the WRs covers requirements for workstations and seating for staff. Regulation 25 of the WRs, *Facilities for rest and to eat meals*, sets out requirements for staff in these areas<sup>12</sup>. The ACOP accompanying Regulation 25 advises on the size of spaces and what furniture is needed in general terms, and on matters such as cleanliness and hygiene. The WRs do not specify that employees should have secondary spaces to work in (for teachers, this is space outside of the classroom). However, independent schools and Academies operate successfully without regulation on that specific issue and maintained schools should be able to do the same. A specific regulation on staff accommodation is therefore unnecessary.

### Ancillary facilities – storage and circulation

- 5.17 This covers the adequate provision of appropriate ancillary facilities, in particular for the storage of pupils' outdoor clothing and other belongings, and to permit the safe and convenient passage of persons and goods within buildings. Regulation 23 of the WRs, *Accommodation for clothing*<sup>13</sup>, covers staff but not pupils. Regulation 17 of the WRS, *Organisation etc of traffic routes*<sup>14</sup>, covers circulation in a school<sup>15</sup> and further advice is provided in the area guidelines. Independent schools and Academies operate successfully without regulation on storage and sufficient guidance is provided in the area guidelines and other supplementary information. Specific regulations on storage and circulation are therefore unnecessary.

**Question: Do you agree that these regulations in the SPRs can be removed?  
If not, why not?**

<sup>10</sup> See Annex F.

<sup>11</sup> In Furniture and fittings.

<sup>12</sup> 25 (1) *Suitable and sufficient rest facilities shall be provided at readily accessible places.*

25 (5) *Suitable and sufficient facilities shall be provided for persons at work to eat meals where meals are regularly eaten in the workplace.*

<sup>13</sup> 23 (1) (a) *Suitable and sufficient accommodation shall be provided for the clothing of any person at work which is not worn during working hours.*

<sup>14</sup> 17 (1) *Every workplace shall be organised in such a way that pedestrians and vehicles can circulate in a safe manner.*

<sup>15</sup> 'Traffic route' is defined in regulation 2 of the WRs as *a route for pedestrian traffic, vehicles or both and includes and stairs, staircase, fixed ladder, doorway, gateway, loading bay or ramp.*



# 6: Supplementary information

- 6.1 As with the current SPRs, the new premises regulations will be supported by guidance that describes the minimum standards, and advises on how they can be satisfied. A draft of this guidance is set out in **Annex C**.

**Question: Do you agree that the information set out in support of the proposed regulations is accessible and adequate? If not, why not?**

# 7: Protection of playing fields

- 7.1 To ensure that existing school playing fields are protected to provide for the future needs of schools and their communities, new draft guidance has been produced (see **Annex D**). This describes the main circumstances in which local authorities, governing bodies, foundation bodies and trustees need to seek the consent of the Secretary of State for Education to dispose, or change the use, of playing field land used by schools. It also describes how the Secretary of State will assess applications for consent to dispose, or change the use, of such land.

**Question: Do you agree that the information set out in this guidance is accessible and adequate? If not, why not?**

# 8: Wider Guidance

8.1 Currently there are around 5,500 pages of departmental guidance on the design and management of school premises available in hard copy and/or on-line. Some of this is out of date, or has been superseded by later documents, while other material could be much more concise.

8.2 The guidance is categorised as –

- **Regulatory guidance** – in addition to the guidance supporting the SPRs there is also material in three building bulletins setting out requirements for compliance with parts of the Building Regulations, and how compliance can be achieved.
- **Building Bulletins** – design guidance covering whole school, or elements of schools, and/or technical guidance, best practice and case studies.
- **Other design guidance** – not in the building bulletins series.
- **Exemplar designs** – schools for the future and similar case studies.
- **Managing School Facilities Guides** – advice mainly to existing schools.
- **Standard Specification, Layouts and Dimensions** – covering a number of building elements.
- **Asset Management Plans** – guidance on assessing the condition, suitability and sufficiency of buildings.

8.3 Our objective is to reduce significantly the amount of guidance available. To do this we will withdraw all documents that are of limited value and streamline the rest (see **Annex E**). The streamlining will involve restructuring how the guidance is presented (see **Annex F** for a possible restructuring).

**Question: Which of the current guidance documents do you particularly value and why?**

**Question: Do you agree that the proposed streamlining of guidance is appropriate? If not, why not?**

# 9: Next Steps

- 9.1 We would welcome comments on the questions asked in this document by **26 January 2012**.

# Annex A: School Premises Regulations – the new requirements

## School Premises Regulations – the new requirements

### Standards for all schools

#### Toilet and washing facilities

1. (1) Subject to paragraph (3), suitable toilet and washing facilities must be provided for the sole use of pupils.
  - (2) Separate toilet facilities must be provided for boys and girls aged 8 years or over, except where they are provided for use by one pupil at a time.
  - (3) Where separate facilities are provided under paragraph (1) for pupils who are disabled, they may also be used by staff and visitors who are disabled.
  - (4) Suitable changing accommodation and showers must be provided for pupils aged 11 years or over who receive physical education.

#### Medical accommodation

2. (1) Suitable accommodation must be provided in order to cater for the medical and therapy needs of the pupils, including accommodation for –
  - a) the medical and dental examination and treatment of pupils; and
  - b) the short term care of sick and injured pupils, which includes or is adjacent to a toilet facility.
- (2) The accommodation provided under paragraph (1) may be used for other purposes (apart from teaching) provided it is always readily available to be used for its primary purpose.
- (3) Where a school caters for pupils with complex needs additional medical accommodation must be provided which caters for those needs.

#### Health, safety and welfare

3. School premises and the accommodation and facilities provided therein must be maintained to a standard such that, as far as reasonably practicable, the health, safety and welfare of the pupils is ensured.

### **Acoustics**

4. (1) The acoustic conditions and sound insulation of the teaching accommodation must be suitable, having regard to the nature of the activities which normally take place therein.

### **Lighting**

5. (1) The lighting in each room or other internal space must be suitable, having regard to the nature of the activities which normally take place therein.  
  
(2) External lighting must be provided in order to ensure safe entry to and exit from the school for pedestrians before and after daylight hours.

### **Water supplies**

6. (1) Suitable drinking water facilities must be provided.  
  
(2) The facilities provided under paragraph (1) will not be suitable unless –
  - a) they are readily accessible at all times when pupils are on the premises;
  - b) they are separate from the toilet facilities; and
  - c) the water is wholesome.  
(3) Toilets and urinals must have an adequate supply of cold water and washing facilities must have an adequate supply of hot and cold water.  
  
(4) Cold water supplies that are not suitable for drinking must be clearly marked as such.  
  
(5) The temperature of hot water at the point of use must not pose a scalding risk to users.

### **Outdoor space**

7. Suitable outdoor space must be provided in order to enable –
  - a) physical education to be provided to pupils in accordance with the school curriculum; and
  - b) pupils to play outside safely.

## **Standards for boarding schools**

### **Sleeping accommodation**

8. (1) Suitable sleeping accommodation must be provided for boarding pupils.  
  
(2) Where pupils are aged 8 years or over, sleeping accommodation for boys must be separate from sleeping accommodation for girls.

### **Toilet and washing facilities**

9. (1) Suitable toilet and washing facilities must be provided for boarding pupils, which must be adjacent to or reasonably accessible from the sleeping accommodation.
- (2) Separate toilet facilities must be provided for boys and girls, except where they are provided for use by one pupil at a time.

### **Living accommodation**

10. Suitable living accommodation must be provided for boarding pupils for the purposes of private study outside school hours and for social purposes.

### **Accommodation for the preparation and consumption of meals**

11. (1) Suitable accommodation must be provided for the preparation and consumption of meals by boarding pupils.
- (2) Accommodation provided under paragraph (1) may be situated in the main school provided it is adjacent to or reasonably accessible from the boarding accommodation.

### **Sick rooms**

12. Suitable accommodation (including toilet facilities) must be provided in order to cater for the needs of boarding pupils who are sick or injured.

### **Staff accommodation**

13. Suitable accommodation (consisting of accommodation in which meals may be taken, living accommodation and sleeping accommodation) and suitable toilet and washing facilities must be provided for residential staff, which must be separate from the accommodation and facilities provided for boarding pupils.

# Annex B: Enforcement powers within the Building Act 1984

## Non-compliance with the Building Regulations

Contravention of the Building Regulations is a criminal offence and action may be taken by a local authority under Section 35 of the Building Act 1984, against a person who contravenes them. If convicted, that person is liable to be fined up to £5,000 for each offence and may also have to pay a daily fine if the default continues after conviction.

Section 36 of the Building Act allows a local authority to serve a Notice requiring the owner of the premises: (a) to pull down or remove any work contravening the Regulations or (b) to bring the work into compliance with the Regulations.

## Dangerous structures

Local authorities in London have statutory duties to deal with dangerous structures under the London Local Authorities Act 2000, and the London Building Acts (Amendment) Act 1939, to ensure that:

- All structures within their boundaries which are considered dangerous are made safe with the shortest possible delay;
- Any demolition work is carried out safely and that adjacent properties, if affected, are made safe.

More generally across the country, Section 77 (Dangerous buildings) of the Building Act 1984 enables local authorities to apply to a Magistrate's Court for an order requiring the owner to make a building safe or to demolish it. If the owner fails to comply, the local authority can carry out the works and reclaim the expenses, which may then be registered as a local land charge.

## Defective premises

Section 76 of the Building Act 1984 gives local authorities powers to deal with defective premises (premises considered to be in a state that is prejudicial to health or causes a nuisance) where there would be an unreasonable delay in remedying the defective state by following the procedures prescribed by Section 80 of the Environmental Protection Act (EPA) 1990 ('Statutory nuisances').



The local authority may serve on the person who would have received an abatement notice under the EPA, a notice stating that the LA intends to remedy the defects and recover the expenses incurred.

## **Enforcements**

In all of the above cases it would normally be the Building Control Department of a local authority that carried out the enforcement procedures.

# Annex C: Standards for School Premises – Supplementary Information

## Overview

This guidance describes and advises on complying with the premises regulations for all types of schools in England.

## Background

The Education Act 1996 places a duty on the Secretary of State to prescribe standards for the premises of all maintained schools in England and Wales. The previous standards were set out in the Education (School Premises) Regulations 1999 (SPRs) and they applied to all existing and new schools maintained by a local authority<sup>16</sup>.

Similarly, the Education Act 2002 empowers the Secretary of State to prescribe standards for the premises of independent schools, which includes Academies and Free Schools. These were covered by Part 5 of The Education (Independent School Standards) (England) Regulations 2010 (ISSs).

While there continue to be two sets of school premises regulations in place, they are now identical and apply to all types of school. This guidance sets out how to comply with these regulations, and therefore also applies to all types of schools.

## Standards for all schools

### Toilet and washing facilities

Suitable toilet and washing facilities must be provided for the sole use of pupils, having regard to their age, number, sex and any special requirements they may have. Where the facilities are for disabled pupils, they may also be used by staff and visitors who are disabled.

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<sup>16</sup> The Regulations apply to nursery, community, community special, foundation, foundation special and voluntary schools and to pupil referral units.

### *Separate toilet facilities for male and female pupils*

Schools must have separate toilet facilities for male and female pupils aged 8 or over. Exceptions may be made for facilities for disabled users and for unisex toilets – those which are designed to be used by one person at a time and have doors that can be secured from the inside.

### *General planning*

Toilet facilities need to be planned and designed so that:

- a) washing facilities are provided within or in the immediate vicinity of every toilet;
- b) the rooms containing them are adequately ventilated and lit;
- c) they are located in areas around the school that provide easy access for pupils, and allow for informal supervision by staff without compromising pupils' privacy.

### *Facilities for disabled pupils*

Each toilet for disabled pupils should contain one toilet and one washbasin, and possibly a shower or other wash down fitting, and have a door opening directly onto a circulation space (other than a staircase) which can be secured from the inside.

Where possible, the number and location of accessible toilets should be sufficient to ensure a reasonable travel distance for users, avoiding changing floor levels. As a guide, a maximum travel distance of 20-25 metres is recommended for schools.

### *Changing accommodation and showers for pupils*

Changing accommodation, including showers, must be provided for pupils aged 11 years and over who participate in physical education. Showers should be separate from toilets and provide adequate privacy. Consideration should also be given to providing changing rooms, with or without showers, for pupils younger than 11 who need to wear sports kit for physical education.

### *Toilets and washing facilities for staff*

Toilets and washing facilities for staff<sup>17</sup> may be also be used by visitors. They should be separate from those provided for pupils, except where they are designed for use by those who are disabled.

## **Medical accommodation**

The requirements for medical and therapy rooms allow pupils that are ill or injured to be looked after appropriately, and for therapy to be offered to those with special educational needs or disabilities who need it. In mainstream schools this may involve the input of a visiting physiotherapist, while in special schools a range of facilities will typically be required to suit different therapy options.

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17 Regulations 20 and 21 of the Workplace (Health, Safety and Welfare) Regulations 1992 set out the standards for staff toilets and washing facilities.

Schools should have, as a minimum, accommodation for:

- medical or dental examinations, eye tests and treatment of pupils (e.g. SEN therapy), containing a washbasin;
- the short-term care of sick or injured pupils, with easy access to a toilet, such as a sick bay close to the main office and reception.

This accommodation can be used for other purposes, except teaching, so long as it is readily available for medical use when needed.

Some therapy can take place in a teaching space or in a small quiet room, such as an office. A school catering for children with complex needs will also need to provide a nurse's room and a physiotherapy room, while some therapies require a specially equipped room<sup>18</sup>. Some special needs pupils will require access to a hydrotherapy or warm water pool.

## Health, safety and welfare

School premises, that is a school's buildings and grounds, should be maintained to a sufficient standard such that, so far as is reasonably practicable, the health, safety and welfare of the pupils using them is ensured. In complying with this regulation, regard should be had to the provisions of all premises-related legislation including, but not limited to<sup>19</sup>:

- The Health and Safety at Work etc Act 1974;
- The Management of Health and Safety at Work Regulations 1999;
- The Workplace (Health, Safety and Welfare) Regulations 1992;
- The Control of Asbestos Regulations;
- The Building Regulations.

Schools must also comply with the Regulatory Reform (Fire Services) Order 2005 to ensure that they have adequate fire precautions in place to allow the safe escape of all occupants in case of fire.

### *The internal environment*

The Workplace (Health, safety and Welfare) Regulations 1992 require schools to be lit, heated and ventilated, cleaned and maintained to a reasonable standard. In addition, the Building Regulations include standards for heating, ventilation, lighting and acoustics and for the conservation of fuel and power.

<sup>18</sup> Specialist advice should be sought on this.

<sup>19</sup> For an overview of all the compliance requirements for public buildings see Compliance Monitoring in Local Authority Premises available at [www.fedps.org.uk](http://www.fedps.org.uk)

### *Pupils with special educational needs*

The Equalities Act 2010 requires all schools to prepare and implement an accessibility strategy to improve the physical environment of the school for pupils with disabilities and special educational needs (SEN). This should include consideration of their particular health and safety needs on the school premises and how these can be met.

### **Acoustics**

In a school with a good acoustic environment, people will experience:

- good sound quality – enabling people to hear clearly, understand and concentrate on whatever activity they are involved in;
- minimal disturbance from unwanted noise (such as from activities in adjacent areas, teaching equipment such as data projectors, ventilation fans or road traffic).

In classrooms, class bases and other areas used for teaching, this will allow teachers to communicate without straining their voices. In some types of spaces, such as music rooms, recording studios, open-plan areas and rooms where pupils with hearing impairment are taught, there are additional requirements that may require higher acoustic standards than those for normal class bases.

### *Acoustic conditions*

In complying with the School Premises Regulation on acoustics, regard should be had to **Acoustic design of schools** [to be revised in 2012; link to be inserted]. This replaces Section 1 of BB93 and sets out performance standards in terms of:

1. **adequate sound insulation of internal walls and floors** to minimise disturbance from sound generated in adjacent areas;
2. **appropriate reverberation times (RT) to suit the teaching and other activities planned to take place in each space.** Reverberation time measures how 'echoey' a particular room is. A relatively short RT is needed in most teaching and learning spaces not only to ensure that speech, including teachers' voices, is clearly heard and understood, but also to control the build-up of occupancy speech noise. Some spaces, for example some types of music room, require a longer RT;
3. **suitable indoor ambient noise levels to enable clear communication.** A part of the way to achieve this is to minimise disturbance from external noise by ensuring adequate sound insulation of the building. Suitable indoor ambient noise levels will vary depending on the activity taking place. Some noise sensitive activities, such as listening to music or learning a language, are less tolerant of background noise, as are rooms used for teaching pupils with hearing impairment and some other special educational needs; and

4. **adequate speech intelligibility in open plan areas** to avoid disturbance from adjacent activities and to ensure that the wanted speech can be understood.

Requirement E4<sup>20</sup> will be satisfied if performance standards 1-3 are met. School buildings are subject to detailed design checks by Building Control Bodies to ensure compliance with this requirement. It is recommended that acoustic tests are carried out on any new school accommodation to demonstrate that performance standards 1 to 3 are met<sup>21</sup>.

### *Management issues*

Good management is needed to ensure that the acoustics of each area remains suitable for its use. For example, a lack of maintenance can lead to deterioration in acoustic conditions.

### *Pupils with special educational needs*

Pupils with special needs may need to be taught in spaces with lower noise levels and shorter reverberation times than in mainstream classrooms and class bases. Special schools and SEN units in mainstream schools therefore require designing to a higher acoustic standard. Where pupils with these special needs are taught in mainstream schools, the acoustics of the spaces where they are taught may need to be enhanced to the same standards as those in special units. Provision will usually be required to teach these pupils in smaller groups so that ambient noise from other pupils is lower and distance between teacher and pupil is minimised.

## **Lighting**

Lighting should be suitable for the activities which take place in each space. To achieve this, regard should be had to:

- achieving adequate light levels, including lighting of faces for good visual communication;
- giving priority to daylight in all teaching and learning spaces, circulation, staff offices and social areas;
- providing adequate views to the outside or into the distance to ensure visual comfort;
- providing lighting controls that are easy to use;
- providing means to control daylight and sunlight, to avoid glare, excessive internal illuminance and summertime overheating;
- providing external lighting to ensure safe pedestrian movement after dark;
- floodlighting outdoor sports areas;
- providing emergency lighting in areas accessible after dark.

20 From Part E of schedule 1 to The Building Regulations 2000 (as amended)

21 Good Practice Guide for acoustic Testing of Schools, Association of Noise Consultants, 2011.

### *Lighting for pupils with special educational needs*

Pupils with special educational needs, including visual impairment and other disabilities, may have additional lighting requirements<sup>22</sup> and specialist advice should be sought. Key points include:

- colour and contrast, which can help people locate doors and their handles, stairs and steps, switches and socket outlets, etc;
- glare should be avoided (including from high gloss finishes that can appear as glare sources when they reflect bright lights);
- use of light sources such as high frequency fluorescent luminaires to avoid subliminal flicker that can induce epileptic fits in susceptible pupils;
- large areas of glazing should be clearly marked to avoid accidents<sup>23</sup>.
- additional local task lighting may be needed.

## **Water supplies**

### *Drinking water*

Drinking water facilities must not be located in toilets and should be maintained in good working order and kept clean. Drinking water supplies should be clearly marked, the water must be wholesome and pupils should have access to it whenever needed.

Tanked supplies can be difficult to maintain in good condition, and so it is generally preferable if drinking water supplies in schools can be connected directly to the cold water main wherever possible.

### *Water supplies for other uses*

Toilets and urinals should have an adequate supply of cold water and washbasins, sinks, baths and showers should have an adequate supply of hot and cold water.

Hot water temperatures at the point of use must not pose a scalding risk to users. Generally this means that for baths and showers, and in all cases where the occupants are severely disabled, the hot water should not be above 43°C. It is also good practice to limit hot water supplies to washbasins in nursery and primary schools to 43°C.

Distribution temperatures and legionella controls should comply with HSE guidance on managing legionella in hot and cold water systems – <http://www.hse.gov.uk/healthservices/legionella.htm>

## **Outdoor space**

Outdoor space must be suitable for pupils to participate in physical education, in accordance with the school curriculum, and to play outside safely. Its design should have regard to their ages, numbers, sex and any special requirements they may have.

22 *Building Sight*, Peter Barker, Jon Barrick, Rod Wilson, RNIB, ISBN 011 701 993 3, HMSO, 1995.

23 Building Regulations AD N, Glazing – *safety in relation to impact, opening and cleaning*, applies.

### *School site*

Schools should make best use of their available outdoor space in order to deliver the Physical Education curriculum, and to provide a safe environment for pupils to play safely.

### *Off-site provision*

Some schools will be restricted by their environment, for example where sufficient outdoor space is simply not available in order to deliver the curriculum, or to allow pupils to play safely, and there are no viable options available to expand the school site. In those circumstances schools should ensure that pupils have access to suitable off-site provision, taking into account lesson planning and travel times, and curriculum requirements.

### *Curriculum*

Physical Education must be provided in accordance with the school curriculum. This may be achieved by a combination of on-site and off-site facilities, together with appropriate timetabling for PE classes, bearing in mind the pupil's ages, number, sex and any special requirements they may have.

### *School playing fields*

Playing fields at maintained schools are protected under section 77 of the 1998 School Standards and Framework Act

## **Standards for boarding schools**

### **Sleeping accommodation**

A school must provide sufficient sleeping accommodation for all of its boarding pupils. This may be in the form of dormitories, shared bedrooms, shared study bedrooms and single study bedrooms, and is likely to vary according to age.

Pupils aged 8 and over must not share sleeping accommodation with pupils of the opposite sex. Although the regulation does not prohibit boys and girls aged less than 8 from sharing sleeping accommodation, providing mixed accommodation is not recommended.

### **Toilet and washing facilities**

Boarding schools should have toilet and washing facilities which are reasonably accessible from the sleeping accommodation and which suit the ages, sex and numbers of boarding pupils and any special requirements that they may have.

They must be in appropriate locations to suit their use by boarders and take into account the safeguarding needs of children accessing and using these facilities. Boarding pupils may be more vulnerable outside normal school hours because staffing levels are low compared to daytime provision, or because staff may not be within the immediate vicinity of all parts of all routes to these facilities.



As a general guide, one toilet should be provided for every five boarding pupils and one washbasin for every three. There should be at least one bath or shower for every 10 boarding pupils.

Toilets and washing facilities provided for pupils that are not part of the boarding accommodation may be counted towards the minimum numbers of fittings to be provided for boarders, if they are reasonably accessible from the sleeping accommodation and are in an appropriate location with regard to the privacy and safety of boarding pupils.

### **Living accommodation**

A boarding school must provide boarding pupils with living accommodation which includes space for private study outside normal school hours and space for social use. The following rooms or spaces may be taken into account as living accommodation:

- study bedrooms, where these form some or all of the sleeping accommodation;
- part of the main school accommodation, if this is adjacent to boarding accommodation and if it is suitable for use as living accommodation by boarding pupils outside school hours.

Social areas such as common rooms, games rooms and television rooms may be counted as living accommodation, as may areas set aside for private study outside school hours. Other areas in which pupils socialise also count. These will vary from school to school, but may include kitchens where pupils prepare hot drinks or snacks and other informal meeting areas.

### **Sick rooms**

A boarding school must provide:

- one or more sick rooms;
- one or more separate isolation rooms if it has more than 40 boarders;
- associated facilities such as toilets, washbasins, baths, and showers.

Exceptions may be made for schools in which all boarding pupils have individual bedrooms, as long as the requirements of the National Minimum Standards for Boarding Schools Standard 3, “Boarders’ Health and Wellbeing”, are complied with.

In a school with both male and female boarders aged 8 or older, separate sick rooms must be provided for boys and girls.

### **Staff accommodation**

Accommodation provided for residential staff must be separate from that provided for boarding pupils.

## Heating and ventilation

Heating systems should be capable of maintaining the following minimum temperatures<sup>24</sup>:

- for washrooms and sleeping accommodation, 15°C;
- for living accommodation, 18°C;
- for sick rooms and isolation rooms, 21°C.

Sleeping and living accommodation, sick rooms and isolation rooms must have ventilation controllable at a rate of at least 3 litres of fresh air per second for each of the maximum number of persons the area will accommodate in normal use. In addition, those areas should be capable of being ventilated at the higher rate of 8 litres of fresh air per second for each of those persons. All washrooms should be capable of being ventilated at a rate of at least 6 air changes an hour.

## Other relevant legislation

Regard should be had to Standard 5, “Boarding Accommodation”, of the National Minimum Standards for Boarding Schools or, where applicable, to Standard 5 of the National Minimum Standards for Residential Special Schools.

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24 To be measured at a height of 0.5m above floor level when the external temperature is -0.1°C

# Annex D: The Protection of School Playing Fields and Land for Academies

## April 2012

### Overview

This Guidance describes the main circumstances in which local authorities, governing bodies, foundation bodies and trustees need to seek the consent of the Secretary of State for Education to dispose, or change the use, of playing field land used by schools. It also describes how the Secretary of State will assess applications for consent to dispose, or change the use, of such land.

### Action

To ensure that existing school playing fields are protected.

### Further information

Enquiries and application forms should be addressed to:

Schools Assets Team  
Partnerships for Schools  
Room 36, Lower Ground Floor  
Mowden Hall  
Staindrop Road  
Darlington  
Co Durham DL3 9BG

Tel (01325) 392136

E-Mail: [schools.assets@partnershipsforschools.org.uk](mailto:schools.assets@partnershipsforschools.org.uk)

Further information can be found on the Department's web pages.

## Summary

1. This Guidance, which supersedes Guidance: *The Protection of School Playing Fields and Land for Academies (2007)*, sets out the Secretary of State's policy to stop the unjustified disposal of school playing fields. The Guidance sets out how the Secretary of State will assess applications for consent to dispose of or change the use of such land. The Guidance:
  - clarifies the protection given to playing fields overall while reducing bureaucratic burdens where possible; and
  - ensures that any proceeds arising from the sale of playing fields at operating maintained schools are re-invested locally with the specific agreement of the Secretary of State.
2. Local authorities and schools continue to require the Secretary of State's written consent before they can sell, or dispose in any way, or change the use of playing fields used by schools. This Guidance ensures, where a disposal of a school playing field takes place, that any proceeds (including benefits in kind) realised are used in accordance with the Secretary of State's prior consent. These measures underline the Government's intention to support localism and flexibility and reduce bureaucracy, whilst continuing to protect school playing fields.
3. This Guidance covers the circumstances in which local authorities need to seek the consent of the Secretary of State for Education (DfE) to dispose of school playing field land. It also covers the disposal of playing fields by certain school bodies. The Guidance describes the following legislation which provides for these circumstances:
  - a) Section 77 of the School Standards and Framework Act 1998 (SSFA) as amended by Schedule 4 to the Education and Inspections Act 2006
4. Section 77 SSFA, as amended, protects school playing fields used by maintained schools in the last 10 years. Local authorities, school governing bodies, foundation bodies, and, in certain circumstances, trustees now need to obtain the Secretary of State's consent before they dispose, or change the use, of school playing fields. Where an area of playing field land has not been used by a foundation, trust or voluntary school or any of its pupils for educational or recreational purposes for a period of more than 10 years, its disposal would fall to be considered under the same procedures that apply to non-playing field land set out in Schedule 22 SSFA as amended by Schedule 4 of the Education and Inspections Act 2006.
5. A playing field is any land in the open air which is provided for the purposes of physical education or recreation. The disposal of school playing fields at maintained schools requires the Secretary of State's consent under both under section 77 of the School Standards and Framework Act 1998 as amended, and under Schedule 35A to the Education Act 1996 as amended by Schedule 7 to the Education Act 2002.
6. Schedule 35A protects land, including playing fields, used by community or county schools at any time within 8 years preceding the date of disposal where that land is needed for an Academy. Local authorities are now required to obtain

the Secretary of State's consent before they dispose of such land. In this case, disposal includes the appropriation of land for other purposes. Where it is proposed to change the use of land protected by Schedule 35A, local authorities are under a duty to inform the Secretary of State of their proposals. Local authorities do not need consent under Schedule 35A or Section 77 where the land in question is being made available in order to establish an Academy. Applications under Section 35A should be made to \*\*\*currently under review – (EFA)

7. This Guidance does not influence any requirement to secure planning permission, or affect the procedures for applying for planning permission. The planning permission process is a separate process concerned with the development of land, including school playing fields, while section 77 SSFA safeguards school playing fields against indiscriminate disposal or change of use. Education Ministers do not have any statutory powers to influence any future development of land; this is strictly a matter for the local planning authority.

## The Legal Framework

### Section 77

8. Section 77(1) of the SSFA, as amended by the 2006 Act, applies to the disposal of playing fields (*playing field is defined in section 77(7) of the SSFA as 'land in the open air which is provided for the purposes of physical education or recreation'*) by
  - a local authority (including a parish council);
  - the governing body of a maintained school;
  - a foundation body; or
  - the trustees of a foundation, voluntary or foundation special school;and section 77(3) applies to certain changes of use of playing fields by
  - a local authority, body or trustees to whom subsection (1) applies;where, in the case of both disposals and changes of use, the playing fields
  - are used by a maintained school (including a maintained nursery school) for the purposes of the school; or
  - have been used by a maintained school for the purposes of the school at any time during the preceding 10 years.

Subsections (1) and (3) apply in relation to the trustees of a foundation, voluntary or foundation special school only if the playing field land in question has been acquired or enhanced at public expense.

9. The disposal of non playing field land or property by foundation, foundation special and voluntary schools is covered by Schedule 22 to the SSFA as amended by the 2006 Act.

## **Changes of use**

10. Section 77(3), as amended, provides that, without the prior consent of the Secretary of State, no local authority, governing body, foundation body, or trustees of a foundation, voluntary or foundation special school may:  
  
‘take any action ... which is intended or likely to result in a change of use of any playing fields ... whereby the playing fields will be used for purposes which do not consist of or include their use as playing fields by a maintained school for the purposes of that school.’
11. So, for example, a local authority may not change the use of playing fields to a local authority residential home, without prior consent under section 77.

## **Schedule 35A**

12. Paragraphs 2 – 6 of Schedule 35A apply to the disposal or appropriation of any land at community or former county schools, including buildings and playing fields, by a local education authority where that land has been used wholly or mainly for such a school in the last 8 years. Paragraph 7 of Schedule 35A places a duty on local authorities to inform the Secretary of State of any proposals to change the use of land, which has been used by a community or county school in the eight years preceding the date of disposal, in such a way that it can no longer be used for the purposes of a school.
13. Paragraph 3 of Schedule 35A provides the Secretary of State with powers to compulsorily purchase the land and to transfer it to the promoters of the Academy where land is disposed of, or appropriated, without prior consent and to repudiate option and contract to dispose agreements. Where the Secretary of State exercises his powers of compulsory purchase he is entitled to recover certain costs from the authority.

## **Matters for which consent is not required**

14. The prior consent of the Secretary of State under section 77 is not required where:
  - consent is required under legislation relating to the compulsory purchase of land;
  - a local authority, governing body, foundation body, or trustees of a foundation, voluntary or foundation special school change the use of a school playing field and the land becomes used in connection with the provision by that local authority, governing body, foundation body, or trustees of a foundation, voluntary or foundation special school of educational facilities for a maintained school or any recreational purposes
  - the land in question is land in respect of which the Secretary of State has given a general consent (see Annex B ‘Section 77 General consents’)
  - the disposal is in pursuance of a transfer order under paragraph A23 of Schedule 22, as amended;
  - the disposal is one to which paragraph 5 or 6 of Schedule 22 (disposals on discontinuance) applies.

### **Changes of use not covered by Section 77**

15. Section 77(4) provides that changes of use by a local authority are not covered by section 77 where the land in question, after the change in use, becomes used 'in connection with the provision by a local authority, governing body, foundation body, or trustees of a foundation, voluntary or foundation special school of educational facilities for a maintained school or any recreational facilities.'
16. A local authority, governing body, or foundation body may, therefore, build permanent classrooms or install mobile classrooms on playing fields without the need for consent under section 77, or they might build an indoor leisure centre, whether for use by the school, by the community or by both. However, where proposals involve the granting of a lease to part of a school playing field to, say, a district council so that they can build a joint use sports centre, the Secretary of State's consent is required under section 77 because the proposal involves a disposal.
17. A local authority, governing body, foundation body, or trustees of a foundation, voluntary or foundation special school may also provide access roads and footpaths, including cycle paths, for the purposes of a maintained school without the need for consent under section 77. However, the change of use of playing fields in order to create facilities for parents to set down and pick up pupils by car is not exempt from section 77.
18. The sale, lease or transfer of playing fields to third parties, such as housing associations, with a view to providing accommodation for key workers is a disposal which requires consent under section 77.

### **Wales**

19. Section 77 and Schedule 35A, together with this Guidance, apply only to schools in England.

## **Applications criteria**

### **Overview**

20. As a precondition of applying for his consent, the Secretary of State expects applicants to present evidence that they have explored all reasonable options prior to making an application to dispose of playing fields, particularly at operating schools. In the case of applications from governing bodies, trustees and foundation bodies, the applicant will need to provide evidence that its local authority has no objection to the disposal of the playing field land.

### **Unused school playing fields**

21. The Department wishes to encourage local authorities, governing bodies, foundation bodies, or trustees of foundation, voluntary or foundation special schools to consider arrangements whereby unused playing fields could be maintained by other local organisations and managed to benefit their local communities. Examples of such local organisations could be district or parish councils or local sports organisations or clubs.

### **Closing and closed school sites**

22. When a school site becomes surplus to requirements either as a result of closure, amalgamation or consolidation, consideration may be given to the disposal, or change of use, of the playing fields provided for it. Where there is community use of such playing fields, the applicant will need to demonstrate to the Secretary of State that their proposals have taken that use into account and that reasonable alternative arrangements have been offered.

### **Section 77 criteria**

23. The Secretary of State has undertaken to publish criteria against which decisions on applications to dispose, or to change the use of, school playing fields will be taken. Applications to dispose, or change the use, of school playing fields will only be considered in circumstances that fulfil these criteria, which are detailed below.

#### *The curriculum*

24. Applications for consent to dispose of school playing fields should give a detailed assessment of the impact of the proposal on the provision of the curriculum, and demonstrate clearly how the curriculum will be met should consent be given. For example, where an alternative playing field is proposed which is off-site, the effect of additional travel-time will have to be taken into account.

#### *Community use*

25. The Secretary of State will take into account community use of school playing fields and expects applicants to take into account after school activities and out-of-hours clubs. Applicants should also be able to demonstrate that, where proposals include a permanent loss of playing fields, any existing after school activities will not be adversely affected. Only authorised users of schools facilities should be taken into account, whether or not such authorised use is covered by formal or informal agreements.
26. Where current community users would be displaced if the proposal were implemented, the Secretary of State expects the application to include a full account of the effect on those users: in particular, whether their activities can realistically be moved to an alternative site on terms which do not adversely affect them. Applicants should, in any event, be prepared to present a reasoned argument why consent should be granted where realistic alternative venues cannot be provided.

#### *Finance*

27. Applications under section 77 must set out the proposed financial implications, including the intended destination of any expected proceeds, or benefits, which the Secretary of State will expect to be used towards specific capital projects to improve and invest as needed locally. Applications for consent should provide an assurance that proceeds will be ring fenced for specific educational investment, although in exceptional circumstances an argument may be made for non-educational investment. All applications should include a valuation report prepared by the district valuer, or by a professional qualified valuer.



### *Equal opportunities*

28. Proposals to dispose of school playing fields should take into account the needs of pupils with disabilities. Such proposals should ensure that access by special education needs pupils to sports, recreation, and social areas is not adversely affected.

### **Schedule 35A criteria**

29. Schedule 35A is concerned only with protecting land needed for Academies including Free Schools. Where consent to dispose of land under Schedule 35A is withheld, it will be because the Secretary of State reasonably believes that the land could be used for the purposes of an Academy. Each application will be considered on this basis.

### **Consultation**

30. The Secretary of State expects prospective applicants to consult fully on their proposals prior to applying for consent under section 77, and to be open about their proposals. Applications should, in general, be open to scrutiny on demand by the local community and other consultees. The Secretary of State would expect a consultation period of not less than 6 term-time weeks.

### *Scope*

31. The Secretary of State further expects that prospective applicants will be consulted, in particular:
- the Headteacher, governing body and parents of pupils attending the school in question;
  - any group or organisation with permission to use the playing field, whether by virtue of a formal agreement or otherwise;
  - the local community generally (perhaps through a newspaper notice);
  - any minor authority in whose area the playing field is situated;
  - the local authority, where the proposal is being made by a governing body or foundation body or trustees; and
  - the local authority in whose area the playing field is situated, if that is different from the local authority intending to dispose, or to change the use, of the playing field.
32. The Secretary of State would expect to see evidence that the relevant groups have been consulted and the results of those consultations.

## Part IV – Applying for consent

### Making an application

33. Applications for consent should be made using the appropriate up to date Departmental form, obtainable from the Schools Assets Team (details on the front of this Guidance or from the Department's Internet site at xxx. **(Proposals are currently under consideration for one application to cover s35A, s77 and general consent notifications, reducing bureaucracy on schools & LAs and streamlining the process. This guidance will, when process agreed, cover all).**

### Processing Section 77 applications

34. The Schools Assets Team is responsible for progressing the assessment of all applications against published criteria. Officials will liaise with applicants to ensure that all necessary information is available to allow the Secretary of State to make a decision.
35. All applications are referred to an independent advisory panel known as the School Playing Fields Advisory Panel. The Panel is purely advisory and has no decision-making or executive function. It comprises representatives of Fields in Trust, the Sport & Recreation Alliance, Learning through Landscapes, the National Association of Head Teachers, and the Local Government Association. The Chair of the Panel is appointed by the Secretary of State to act as an impartial, independent Chairman. The purpose of the Panel is to provide the Secretary of State with independent objective advice on the extent to which each application to dispose, or change the use, of school playing fields meets the published criteria. The existence of the Panel renders it unnecessary for applicants to consult any of these organisations prior to application.

### Telecommunications masts

36. The siting of telephone masts and their base stations on school playing fields are disposals that are covered by section 77. Audits carried out by the Radiocommunications Agency of mobile phone base stations located at or near schools show that the level of emissions ranges from several hundred to many thousands of times less than those recommended in guidelines set out by the International Commission on Non-Ionizing Radiation Protection (ICNIRP).
37. The Department has, therefore, established a policy that the installation of telecommunications masts and other equipment will not normally be permitted on school playing fields unless:
- the prior approval of planning consent has been obtained, thus demonstrating that the proposals comply with ICNIRP guidelines; and
  - it is clearly demonstrated that the proposals enjoy the support of a significant majority of parents of pupils at the school affected.

Consultation under the planning process requires only that proposals have the support of the school's governing body.

## Annex A

### Background – legislation

#### Playing fields

1. Section 77 SSFA, as subsequently amended by the Education and Inspections Act 2006, protects school playing fields by requiring local authorities, governing bodies of maintained schools, foundation bodies and the trustees of a foundation, voluntary or foundation special school to obtain the prior consent of the Secretary of State before disposing, or changing the use, of a school playing field.
2. In the case of land held by the trustees of a foundation, voluntary or foundation special school the requirement to obtain the Secretary of State's consent applies to:
  - a. any land acquired under section 60, 61 or 70 of the Education Act 1996,
  - b. any land acquired under any of the following:-
    - paragraph 2 of Schedule 3;
    - paragraph 16 of Schedule 6 (including that provision as applied by any enactment);
    - paragraph 5 (4B)(d) of Schedule 4 to the 2006 Act;
    - any regulations made under paragraph 5 of Schedule 8,
  - c. any land acquired under any of the following:
    - paragraph 4 or 9 of Schedule 3;
    - paragraph 20 of Schedule 6 (including that provision as applied by any enactment),
  - d. any land acquired under any of the following:-
    - paragraph 8 (5) of Schedule 8 to the Education Act 2002;
    - paragraph 14 (5) of Schedule 10 to the Education Act 2005;
    - paragraph 28 (2) or 31 (1) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment);
    - any regulations made under section 24 of that Act by virtue of subsection (3)(b) of that section,
  - e. any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred on or after the appointed day for the purposes of the school and treated by the local education authority as expenditure of a capital nature,
  - f. any land acquired from the Funding Agency for Schools,

- g. any land acquired, or enhanced in value, wholly or partly by means of:
    - i) any maintenance, special purpose or capital grant (within the meaning of Chapter 6 of Part 3 of the Education Act 1996), or
    - ii) any grant paid under section 216(2) of that Act,
  - h. any land acquired wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph f or g,
  - i. any land acquired, or enhanced in value, wholly or partly by means of any grant made in pursuance of a special agreement (as defined by section 32(5) of the Education Act 1996),
  - j. any land acquired, or enhanced in value, wholly or partly by means of any grant made on or after 1st April 2007 by the Secretary of State under paragraph 5 of Schedule 3 (including that provision as applied by any enactment) in relation to which notice is given in accordance with paragraph A27 of the 2006 Act, or
  - k. any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired or enhanced in value as mentioned in paragraph j.
3. The requirement to obtain the Secretary of State's prior consent also applies in the case of the trustees of a foundation or foundation special school to:
- a. any land acquired by the trustees from the governing body of the school or of another foundation or foundation special school which was land:-
    - (i) acquired by the governing body under a transfer under section 201(1) (a) of the Education Act 1996,
    - (ii) acquired by the governing body under any of the provisions mentioned in sub-paragraph (1)(b) or under paragraph 8A of Schedule 4 to the 2006 Act, or
    - (iii) acquired by the governing body, or enhanced in value, wholly or partly with the proceeds of disposal of land acquired as mentioned in sub-paragraph (i) or (ii), or
  - b. any land acquired, or enhanced in value, wholly or partly with the proceeds of disposal of any land acquired as mentioned in paragraph (4)(b) above.
4. The requirement to obtain the Secretary of State's prior consent to the disposal or change of use of school playing field by the trustees of a voluntary school also applies to:-
- a. any land acquired by the trustees from the governing body of the school which was land acquired by the governing body:-
    - (i) under a transfer under section 201(1)(a) of the Education Act 1996, or

- (ii) wholly or partly with the proceeds of disposal of any land so acquired, and transferred by the governing body to be held on trust by the trustees, or
- b. in the case of a voluntary aided school which was, immediately before the appointed day, a controlled school within the meaning of the Education Act 1996, any land acquired, or enhanced in value, wholly or partly by means of expenditure incurred under section 63 or 64 of the Education Act 1996.

### **Differences between Section 77 and Schedule 35A**

5. The purpose of section 77 is to protect school playing fields against indiscriminate disposal or change of use, by requiring the prior consent of the Secretary of State before disposal or change of use may take place. The purpose of Schedule 35A, however, is to ensure that where there is a need for an Academy to be established, land is made available.

## **Annex B**

### **Section 77 and Schedule 35A**

#### **Section 77 general consents**

##### **Closed/closing school sites**

1. Hard play and social areas at closed schools normally have no further use. The Department considers that 'hard play' areas do not include areas with an all-weather surface, or tarmac games courts provided solely for the playing of team games.
2. A general consent has been given to the disposal or change of use of hard play areas, social areas, and other ancillary social and recreation or habitat areas that surround the buildings at closed or closing school sites where:
  - the local authority can satisfy the Secretary of State that the areas in question are not needed by other schools that may share, or border, the school site.

##### **Easements, wayleaves and temporary disposal or change of use**

###### *Easement*

3. Easements and wayleaves are the means through which organisations such as utilities secure temporary access in order to carry out maintenance and related works to the services they provide. Such access will not, of itself, constitute a threat to playing field provision. A general consent has therefore been given to the granting of easements and wayleaves by a local authority, governing body or foundation body.

###### *Temporary disposal or change of use*

4. There are occasions when temporary access is needed over school playing fields to complete construction work on, or adjacent to, the school site. Such temporary access might be granted in the form of a short lease or other contractual agreement that would result in the temporary change of use of part of a playing field. The Secretary of State has agreed to grant a general consent to the temporary disposal or change of use of school playing field provided that:
  - the lease or temporary change or use is for no longer than one calendar year, and
  - he is re-assured that the school is still able to deliver the curriculum, and
  - the land is restored to at least the same condition that it was beforehand.

##### **Areas of land less than 50m<sup>2</sup>**

5. On some occasions, it is necessary for organisations such as utilities to require more than temporary access. In such cases, an easement is insufficient and access can only be guaranteed by means of a lease or outright purchase. The amount of land required is not usually significant, therefore, a general consent has been given to the disposal of areas of less than 50m<sup>2</sup> where such land is required for highway purposes, health and safety reasons or by one of the utilities (water, gas,

electricity). The construction of telecommunication masts and associated equipment on school playing fields is not intended to be covered by this general consent. The erection of such equipment is dealt with at paragraphs 36 and 37.

### **Certain disposals where playing fields will remain as playing fields**

6. There can be occasions when a local authority, governing body or foundation body wish to lease or transfer playing fields to an organisation with the express intention that that organisation will maintain them as playing fields. Such a lease or transfer (which will be a disposal) falls within the scope of section 77, but a general consent has been given, provided that:
  - the constitution of the receiving organisation obliges that organisation to maintain them as playing fields, or the terms of the lease or transfer agreement require that organisation to maintain them as playing fields, for at least 10 years, or
  - the transfer or lease is to a local authority and the receiving authority has given an undertaking that the playing fields will continue to be used as school/ community playing fields for at least 10 years, and
  - in both cases the terms of the disposal agreement provide that any school or community user group using the playing fields immediately before the transfer may continue to do so for at least 10 years following the date of the disposal, during which time they will have access to the playing fields for the same periods and on the same, or more favourable, terms as they did before the disposal, and
  - the principal purpose of the receiving organisation is not to make a profit from commercial sports schemes.
7. The intention here is to help improve playing field facilities and to make playing fields more widely available to local communities thereby promoting social inclusion. It is not intended that transfers or leases made under this general consent will be made to commercial, profit making organisations who propose to charge commercial rates for the use of their facilities. Such transfers or leases are subject to the full application procedure required under section 77.
8. The Secretary of State agrees that a general consent should be granted where the disposal involves the granting of a leasehold interest in the whole school site, including the playing fields, to facilitate an agreement under a Private Finance Initiative, provided there is no net loss of school playing field.

### **Exchanges**

9. There can be occasions when specific playing fields would be sold, or their use changed, in return for which alternative playing fields will be provided. In such instances, the needs of schools and their communities may be provided for just as generously as before and, in these circumstances, the Secretary of State takes the view that nothing would be gained by subjecting the disposal to scrutiny. But, in other instances, the playing fields to be provided in place of the original ones might be available to the school or authorised local community users on less generous terms than those being lost. So, for example, a school and its

community partners which previously had exclusive use of its former playing fields might have to share the replacement playing fields. The Secretary of State wishes to exercise flexibility where this can be justified and, therefore, draws a distinction between arrangements giving the school and its local community the same right of access to the replacement playing fields as they had to the original ones, and those arrangements that do not.

10. The Secretary of State also draws a distinction between exchanges that replace school playing fields with newly created playing fields and those whereby existing playing fields are to be made available for schools' use. For example, it is not intended that playing fields at an operating school may be sold under this general consent because the school will be given existing playing fields at a nearby closed school or the shared use of other already existing playing fields.
11. In referring to "newly created alternative playing fields" the Secretary of State means land that has not been used previously as school playing field. For example, it could be a brown field site or it could be newly acquired agricultural land.
12. The Secretary of State wishes to be satisfied that the location of the replacement playing field is such that schools can realistically have the same access that they previously enjoyed. For example, he would question whether a school could enjoy the same access to a remote, off-site playing field as a replacement for an on-site playing field.
13. There is also a need to take into account those occasions where an authority may retain the playing fields of a school that has been closed for a number years and now wishes to establish new school playing fields at an alternative site. If newly created playing fields are provided at the new site, which at least replicate the area of playing field at the old, closed site, it would seem sensible to treat the matter as an exchange.
14. A general consent, therefore, is given to the disposal, or change of use, of school playing fields where, upon that disposal or change of use, any school which used the original playing fields in the six months immediately before the disposal will have made available to it newly created alternative playing fields, provided that the replacement playing fields:
  - are of at least the same area as the original playing fields, and
  - are immediately available to any such school for at least the same periods and on the same, or more favourable, terms as the original playing fields had been and have the same or better facilities, and
  - the location is such that the school is able to carry out the curriculum to at least the same extent as on the original playing field, and
  - there is no reduction in the amount or type of sports provision currently available to the school.



### **Disposal or change of use of playing fields used only temporarily for school purposes**

15. There is a difference between playing fields provided primarily for schools' use, and playing fields used by schools only occasionally. Section 77 might be misinterpreted to mean that it applies to playing fields used by schools temporarily. The Secretary of State sees no need to regulate playing fields under section 77 where these are not provided primarily for schools and where they do not constitute part of a school's normal playing field provision.
16. A general consent has, therefore, been given to the disposal, or change of use, of playing fields not primarily provided for school purposes where they are used only temporarily by schools when their normal playing fields were unavailable. For the purposes of this general consent, the Department is of the view that 'temporary use' would be interpreted to be:
- used for a maximum of three school terms during the last ten years as a school's main team game playing field;
  - used while the school's own playing fields were temporarily unavailable for reasons outside the control of the authority, foundation or governing body as the case may be;
- or
- used only occasionally by schools to supplement their main, normal playing fields. For the purposes of this general consent, the Department is of the view that 'occasional use' would be interpreted to be an informal use without prior agreements.

### **Disposals under paragraphs 8 and 9 of Schedule 3 and paragraphs 16 and 20 of Schedule 6 to the SSFA**

17. Paragraphs 8 and 9 of Schedule 3 and paragraphs 16 and 20 of Schedule 6 to the SSFA (or, before 1 September 1999, sections 68 and 70 of the Education Act 1996) give local authorities the power to assist the governing body of an aided school and the promoters of new voluntary and foundation schools. Where that assistance consists of the provision of any premises for the use, or for the purposes, of a school, the local authority must convey their interest in those premises to the trustees of the school or, where there are no trustees, to the foundation body, which then must hold those premises on trust for the purposes of the school. Given that the local education authority is under a statutory duty to convey their interest, the Secretary of State believes that specific consent under section 77 is unnecessary. A general consent therefore has been given to disposals of school playing fields in these circumstances.

### **Information required**

18. The effect of a general consent is that, where the circumstances described apply, and where any conditions are met, the specific prior consent of the Secretary of State will not be required under section 77. The relevant body is to decide whether the disposal, or change of use, meets the circumstances and criteria set

out in the Consent order and provide the Department (EFA) with the following details:

- a. the date (or the proposed date) of the disposal or the change of use; and
- b. an explanation as to why the body thinks that the disposal, or change of use, is covered by a general consent; and
- c. a plan clearly showing the area in question in relation to the whole of the school site; and
- d. where the disposal or change of use is at an operating school, the views of the head teacher and governing body of the school or, in the case of an application by a foundation or voluntary school, the school's maintaining local authority.

## **Schedule 35A general consents**

### **Easements**

19. Easements are temporary access in order to carry out limited work for short periods. This type of access will not, of itself, constitute a threat to the possible provision of an Academy on a site. A general consent has therefore been given to the granting of an easement over land.

### **Areas of less than 50m<sup>2</sup>**

20. Sometimes an easement is insufficient and access can only be guaranteed by means of a lease or outright purchase of quite small areas of land that would not threaten the provision of an Academy. Therefore, a general consent has been given to the disposal of areas of less than 50m<sup>2</sup> where such land is required for the purposes of construction, maintaining or servicing a highway, health and safety reasons or enabling provision gas, water or electricity.

### **Disposals connected with leases under a PFI agreement**

21. Where the disposal is the granting of a leasehold interest to make possible an agreement under the Private Finance Initiative, the Secretary of State sees no need for a formal application. Therefore he gives consent to the granting of a leasehold interest in the land if it is to facilitate an agreement under a PFI scheme.

### **Disposals under paragraph 9 of schedule 3 to the SSFA**

22. In order to fulfil its duty under paragraph 9 to Schedule 3 of the SSFA, the Secretary of State gives his consent to transfer to a voluntary aided school any premises which the authority is providing to that school by way of assistance.

## Annex C

### Definitions provided in the SSFA, 2002 and 1996 Acts

1. Section 77 and Schedule 35A use a number of terms that the SSFA and the 2002 and 1996 Acts do not define. The final interpretation of these terms is a matter exclusively for the courts, but guidance is offered below. Where the SSFA or the 1996 Act do provide a definition for the terms used in section 77 and Schedule 35A we have, for ease of reference, reproduced those definitions here. We also give the Department's view of certain terms used for the purposes of this Guidance.

#### Playing fields

2. Section 77(7) of the SSFA defines playing fields as  
  
'land in the open air which is provided for the purposes of physical education or recreation, other than any prescribed description of land'
3. The Department's view is that physical education or recreation means team games, non-team games, informal and social activities and the study or enjoyment of the natural environment.
4. The Department takes the view that, for the purposes of section 77, school playing fields include:
  - **grass pitches and artificial surface pitches** set out for the playing of sports
  - **hard surface games courts** including multi-games courts, tennis courts, netball courts and hard paving marked out for games;
  - **informal and social areas**, including grassed areas, paved areas (including playgrounds), outdoor seating and teaching areas including rest and quiet areas;
  - **marginal areas**, around the edges of playing fields for run-off and to allow for the cyclical realignment of pitches;
  - **habitat areas**, set aside for the formal teaching of nature or informal curriculum purposes, including meadowland, wildlife habitats (including ponds), gardens, nature trails and outdoor science areas.
  - **local authority parkland** or other open space that is used, or has been used in the last ten years, for the purposes of a maintained school.
5. The Department's view is that land which falls under the following descriptions is not considered to be school playing fields under section 77:
  - land on which stands a building or other structure including indoor and outdoor swimming pools, and incidental land that is functionally linked to such buildings or structures;

- soft landscaped or grassed areas not suitable for use for physical education or recreation purposes, such as marginal waste land outside of a school's physical boundary fencing and ornamental or other flower beds which directly surround a building or which are connected to a caretaker's house; and
- roads, car parks, paths and, for example, hard standing areas for the storage of waste containers.

## **Land**

6. Land is defined in section 579(1) of the Education Act 1996 as 'buildings and other structures, land covered with water and any interest in land.'

## **Disposals under Schedule 22 to the SSFA**

7. Schedule 22 has been significantly amended by Schedule 4 to the Education and Inspections Act 2006 and relates solely to the disposal of non-playing field land by the governing body of a foundation, voluntary or foundation special school, by a foundation body or by the trustees of a foundation, voluntary or foundation special school.

# Annex E: Guidance on the Design and Management of School Premises

**Regulatory guidance – design guidance that includes requirements for compliance with the Building Regulations and illustrates how compliance can be achieved – to be consolidated**

BB 101, Ventilation of school buildings, downloadable only, 2006

BB 100, Design for Fire Safety in Schools, NBS/RIBA 2007

BB 93, Acoustic Design of Schools, TSO 2003

These documents are cited in the Approved Documents that support the Building Regulations. BB 93 also supports The Noise at Work Regulations 1989.

**Building Bulletins – current design guidance covering whole school, or elements of schools, and/or technical guidance, best practice and case studies – to be restructured, see Annex F**

BB 102, Designing for disabled children and children with special educational needs, TSO 2008

BB 99, Briefing Framework for Primary School Projects, TSO 2006

BB 98, Briefing Framework for Secondary School Projects, TSO 2004)

BB 96, Meeting the educational needs of children and young people in hospital (DES/DOH) TSO 2003

BB 95, Schools for the Future: Designs for learning communities, TSO 2002

BB 92, Modern Foreign Languages Accommodation: A Design Guide, TSO 2000

BB 89, Art Accommodation in Secondary Schools, TSO 1998

BB 88, Fume Cupboards in Schools, TSO 1998 CLEAPPS revising, but retain until new version ready.

BB 81, Design and Technology Accommodation in Schools: A Design Guide, TSO revised 2004

BB 80, Science Accommodation in Secondary Schools: A Design Guide, downloadable only, revised 2004

BB 79, Passive Solar Schools: A Design Guide, TSO 1995

**Other current design guidance – to be restructured, see Annex G**

Project Faraday – Exemplar designs for science, TSO 2007

Design of sustainable schools: case studies, TSO 2006

Designing School Grounds, TSO 2006

Primary Ideas: projects to enhance primary school environments, TSO 2006

Music Accommodation in Secondary Schools: a design guide, NBS/RIBA 2010 (£20)

**Managing School Facilities Guides – part current**

Guide 4 – Improving Security in Schools, TSO 1996 – still useful, but may need to delete.

Guide 6 – Fire Safety, TSO 2000 – still useful, but out of date in parts and may need to delete.

Guide 7 – Furniture and Equipment in Schools: A Purchasing Guide, TSO 2000 – still useful.

**Standard Specification, Layouts and Dimensions (SSLDs) – to be consolidated as part of Standardisation work**

SSLD Guidance 1: Partitions in Schools, DCSF 2007

SSLD Guidance 2: Floor Finishes in Schools, DCSF 2007

SSLD 3: Toilets in Schools, DCSF 2007

SSLD 4: Lighting systems in schools, DCSF 2007

SSLD 5: Roof coverings in Schools, DCSF 2008

SSLD 6: Internal stairways in schools, DCSF 2008

SSLD 7: Internal door sets in schools, DCSF 2008

SSLD 8: Sprinklers in schools, DCSF 2008

**Asset Management Plans – to be consolidated as part of Condition Surveys work.**

Asset Management Plans: Section 1 Framework, DCSF

Asset Management Plans: Section 2 Property Information Systems and Schools Premises Data, DCSF

Asset Management Plans: Section 3 Condition Assessment, DCSF

Asset Management Plans: Section 3a Getting into Condition, DCSF

Asset Management Plans: Section 4 Suitability Assessment, DCSF

Asset Management Plans: Section 5 Sufficiency Assessment, DCSF

**Guidance that is out of date or superseded – to be withdrawn**

BB 94, Inclusive School Design, TSO 2001 – superseded by BB 102

BB 91, Access for Disabled People to School Buildings: Management and Design Guide, TSO 1999 – superseded by BB 102

BB 90, Lighting Design for Schools, TSO 1999 – of limited value as superseded by CIBSE guide

BB 87, Guidelines for Environmental Design, TSO 2003 – out of date

BB 86, Music Accommodation in Secondary Schools, TSO – superseded by RIBA version

BB 85, School Grounds: A Guide to Good Practice, TSO 1997 – superseded by “Designing School Grounds”.

BB 84, School Boarding Accommodation: A Design Guide, TSO 1997 – out of date

BB 83, Schools’ Environmental Assessment Method (SEAM), TSO 1996 – out of date.

BB 82, Area Guidelines for Schools, TSO revised 2002 – superseded by BBs 98 and 99

## 54 Standards for School Premises – Consultation Document

BB 78, Security Lighting, TSO 1993 – out of date

BB 77, Designing for Pupils with Special Educational Needs: Special Schools, TSO 1997 – superseded by BB 102

BB 76, Maintenance of Electrical Services (in Educational Buildings), TSO 1992 – out of date

BB 75, CCTV Systems in Educational Buildings, TSO 1991 – out of date

BB 74, A School for Armenia, TSO 1991

BB 73, A Guide to Energy Efficient Refurbishment Maintenance and Renewal in Educational Buildings, TSO 1991 – out of date

BB 72, Educational Design Initiatives in City Technology Colleges, TSO 1991 – out of date.

BB 71, The Outdoor Classroom, TSO second edition 1999 – superseded by “Designing School Grounds”

BB 70, Maintenance of Mechanical Services (in Educational Buildings), TSO 1990 – out of date

BB 69, Crime Prevention in Schools: Intruder Alarm Systems, TSO 1989 – out of date

BB 67, Crime Prevention in Schools: Practical Guidance, TSO 1987 – out of date

MSF Guide 1 – Saving Water, TSO 1994 – superseded by Top Ten Tips on DfE website

MSF Guide 2 – Swimming Pools, TSO 1994 – out of date

MSF Guide 3 – Saving energy, TSO 1995 – superseded by Top Ten Tips on DfE website

MSF Guide 5 – Purchasing Energy, TSO 1998 – out of date

Design Note 48, Graffiti removal and control, DfE – out of date

Better Buildings, Better Design, Better Education, DCSF 2007 – out of date

### **Guidance not under control of DfE/PfS**

21st Century Learning Environments, OECD 2006 – had departmental input, but owned by CELE/OECD

Designing Space for Sports and Arts, DfEE/DCMS 2000 – out of date

How to Combat Arson in Schools, Arson Prevention Bureau – had departmental input, but owned by APB.

A Guide for School Governors Developing School Buildings, RIBA – first edition had departmental input, but owned by RIBA (third edition now out).

Designs for Learning, OECD – had departmental input, but owned by CELE/OECD

### **Titles to be transferred to other organisations or archived**

Inspirational Design for Kitchen & Dining Spaces, DCSF 2007

Transforming Schools: an inspirational guide to remodelling secondary schools, DCSF 2004

Classrooms of the Future, DCSF 2003

Designing schools for extended services, DCSF 2006

Exemplar Designs: concepts and ideas, DCSF 2004

Inspirational Design for PE and Sport Spaces, DCSF 2005

# Annex F: Possible Restructuring of Guidance

<b>Revised guidance</b>			
<b>New guide</b>	<b>Covering</b>	<b>Extracted from</b>	<b>Notes</b>
<b>Area guidelines for mainstream and special schools</b>	Gross and net area; categories of space (e.g. basic teaching), room sizes.  Indoor and outdoor	BB 98, Briefing Framework for Secondary School Projects (areas only)  BB 99, Briefing Framework for Primary School Projects (areas only)  BB 102, Designing for disabled children and children with special educational needs (areas only)	
<b>Compendium for mainstream schools (primary, secondary, all age)</b>	Site planning	BB 98, Briefing Framework for Secondary School Projects  BB 99, Briefing Framework for Primary School Projects	
	Range of spaces and basic characteristics divided into: basic teaching; large/halls; central support; non-net	BB 98, Briefing Framework for Secondary School Projects  BB 99, Briefing Framework for Primary School Projects  BB 92, Modern Foreign Languages Accommodation: A Design Guide  BB 89, Art Accommodation in Secondary Schools  BB 86, Music Accommodation in Secondary Schools  BB 81, Design and Technology Accommodation in Schools: A Design Guide  BB 80, Science Accommodation in Secondary Schools: A Design Guide  Food technology spaces in secondary schools	



<b>Revised guidance</b>			
<b>New guide</b>	<b>Covering</b>	<b>Extracted from</b>	<b>Notes</b>
	Whole building planning (adjacencies)	BB 98, Briefing Framework for Secondary School Projects BB 99, Briefing Framework for Primary School Projects	
	Key design principles (all aspects)	BB 98, Briefing Framework for Secondary School Projects BB 99, Briefing Framework for Primary School Projects BB 102, Designing for disabled children and children with special educational needs (basics)	And possibly BB 95, Schools for the Future: Designs for learning communities
	Environmental Design outline	BB 87, Guidelines for Environmental Design	
	Building fabric, fittings, furniture and equipment	BB 102, Designing for disabled children and children with special educational needs (basics) Guide 7 – Furniture and Equipment in Schools: A Purchasing Guide (section 2)	
	Large spaces/halls: PE, dance, assembly, dining, theatre (Planning, servicing, layouts, FFandE etc). Links to area data sheets	Inspirational Design for PE and Sport Spaces Inspirational Design for Kitchen and Dining Spaces (dining only) Designing for sports and arts (draft) BB 99, Briefing Framework for Primary School Projects	This and other spaces guides could be combined? Or Could merge with data sheets?

<b>Revised guidance</b>			
<b>New guide</b>	<b>Covering</b>	<b>Extracted from</b>	<b>Notes</b>
	Basic teaching spaces: GT, art, music, DandT, science, food (Planning, servicing, layouts, FFandE etc). Links to area data sheets	BB 92, Modern Foreign Languages Accommodation: A Design Guide, TSO 2000 BB 89, Art Accommodation in Secondary Schools, TSO 1998 BB 86, Music Accommodation in Secondary Schools, TSO revised 2010 BB 81, Design and Technology Accommodation in Schools: A Design Guide, TSO revised 2004 BB 80, Science Accommodation in Secondary Schools: A Design Guide, downloadable only, revised 2004 Project Faraday BB 99, Briefing Framework for Primary School Projects	
	Central resources and non-net areas: Libraries, staff spaces, admin., toilets and changing, kitchens, circulation (Planning, servicing, layouts, FFandE etc). Links to area data sheets	BB 98, Briefing Framework for Secondary School Projects BB 99, Briefing Framework for Primary School Projects SSLD 3: Toilets in Schools (guidance only)	

<b>Revised guidance</b>			
<b>New guide</b>	<b>Covering</b>	<b>Extracted from</b>	<b>Notes</b>
<b>Compendium for special schools and special units</b>	Most of BB102 – Site planning; Range of spaces and basic characteristics; Whole building planning (adjacencies); Key design principles; Environmental Design outline; Building fabric, fittings, furniture and equipment	BB 102, Designing for disabled children and children with special educational needs	
<b>Outdoor spaces</b>	PE spaces, playgrounds, habitat areas	BB 98, Briefing Framework for Secondary School Projects BB 99, Briefing Framework for Primary School Projects	And possibly Designing School Grounds
<b>Briefing and procurement mini guide</b>		BB 98, Briefing Framework for Secondary School Projects BB 99, Briefing Framework for Primary School Projects BB 102, Designing for disabled children and children with special educational needs	

