



Please reply to national@fairplayforchildren.net

LOCAL EDUCATION AUTHORITY OBLIGATIONS CONCERNING PROVISION OF RECREATIONAL FACILITIES FOR CHILDREN AND YOUNG PEOPLE

The Education Act 1996 sets out obligations and enabling functions of LEAs as regards recreational provision for children and young people. The original definition was under Section 508, and in the first section it states what an LEA is obligated to do –this is around adequacy of facilities for children of educational age, and the mandatory word 'shall' is used. The second section goes on to say what LEAs can do – the enabling function, and includes play provision. The third section is a mandatory requirement to consider the expediency of cooperating with voluntary and other bodies.

Sections 507a and b were added as amendments in 2006 (Education and Inspections Act).

507a concerns provision for under-13s, the traditional non-youth service population. The first section, like 508, is mandatory, the 2nd deals with types of provision, and the 3rd concerns, again having to consider working with the voluntary sector etc. Instead of 'shall', the emphasis is on 'must', so it is stronger than 508(3)

507b focuses on the 13+ age range, and its emphasis is on 'positive leisure-time activities for young people. Section 1 has a 'must' but is qualified by the phrase "so far as is reasonably practicable' and therein lies scope for wide variation. There have been few tests in court.

The following sections cover a range of matters and definitions including those of young people with learning issues. The section is far more detailed than either 507a or 508. Statutory Guidance has been issued and revised in 2012 by the Department of Education. This is reproduced at Appendix 1

507ALEAs in England: functions in respect of recreational and training facilities for children under 13

(1)A local education authority in England must secure that the facilities for primary and secondary education provided for their area include adequate facilities for recreation and social and physical training for children who have not attained the age of 13.

(2)For the purposes of subsection (1) a local education authority may—

(a) establish, maintain and manage, or assist the establishment, maintenance and management of—

(i) camps, holiday classes, playing fields, play centres, and

(ii) other places, including playgrounds, gymnasiums and swimming baths not appropriated to any school or other educational institution,

at which facilities for recreation and social and physical training are available for persons receiving primary or secondary education;

(b) organise games, expeditions and other activities for such persons; and

(c) defray, or contribute towards, the expenses of such games, expeditions and other activities.

(3) When making arrangements for the provision of facilities or the organisation of activities in the exercise of their powers under subsection (2), a local education authority must, in particular, have regard to the expediency of co-operating with any voluntary societies or bodies whose objects include the provision of facilities or the organisation of activities of a similar character.

507BLEAs in England: functions in respect of leisure-time activities etc for persons aged 13 to 19 and certain persons aged 20 to 24

(1) A local education authority in England must, so far as reasonably practicable, secure for qualifying young persons in the authority's area access to—

(a) sufficient educational leisure-time activities which are for the improvement of their well-being, and sufficient facilities for such activities; and

(b) sufficient recreational leisure-time activities which are for the improvement of their well-being, and sufficient facilities for such activities.

(2) "Qualifying young persons", for the purposes of this section, are—

(a) persons who have attained the age of 13 but not the age of 20; and

(b) persons who have attained the age of 20 but not the age of 25 and have a learning difficulty (within the meaning of section 13(5)(a) and (6) of the Learning and Skills Act 2000).

(3) For the purposes of subsection (1)(a)—

(a) "sufficient educational leisure-time activities" which are for the improvement of the well-being of qualifying young persons in the authority's area must include

sufficient educational leisure-time activities which are for the improvement of their personal and social development, and

(b) "sufficient facilities for such activities" must include sufficient facilities for educational leisure-time activities which are for the improvement of the personal and social development of qualifying young persons in the authority's area.

(4) References in the remaining provisions of this section to "positive leisure-time activities" are references to any activities falling within paragraph (a) or (b) of subsection (1).

(5) For the purposes of subsection (1) a local education authority may—

(a) provide facilities for positive leisure-time activities;

(b) assist others in the provision of such facilities;

(c) make arrangements for facilitating access for qualifying young persons to such facilities;

(d) organise positive leisure-time activities;

(e) assist others in the organisation of such activities;

(f) make arrangements for facilitating access for qualifying young persons to such activities;

(g) enter into agreements or make arrangements with any person in connection with anything done or proposed to be done under any of paragraphs (a) to (f);

(h) take any other action which the authority think appropriate.

(6) For the purposes of subsection (5)—

(a) the provision mentioned in paragraph (a) may include establishing, maintaining and managing places at which facilities for positive leisure-time activities are provided;

(b) the assistance mentioned in paragraphs (b) and (e) may include the provision of financial assistance;

(c) the arrangements mentioned in paragraphs (c) and (f) may include the provision of transport, of financial assistance or of information to any person.

(7) Before taking any action for the purposes of subsection (1) ("the proposed action"), a local education authority must—

(a) consider whether it is expedient for the proposed action to be taken by another person, and

(b) where the authority consider that it is so expedient, take all reasonable steps to enter into an agreement or make arrangements with such a person for that purpose.

(8) For the purposes of subsection (7)(a) a local education authority must consult such persons as the authority think appropriate as to whether it is expedient for the proposed action to be taken by another person.

(9) In exercising their functions under this section a local education authority must—

(a) take steps to ascertain the views of qualifying young persons in the authority's area about—

(i) positive leisure-time activities, and facilities for such activities, in the authority's area;

(ii) the need for any additional such activities and facilities; and

(iii) access to such activities and facilities; and

(b) secure that the views of qualifying young persons in the authority's area are taken into account.

(10) A local education authority in England must—

(a) publicise information about positive leisure-time activities, and facilities for such activities, in the authority's area, and

(b) keep the information publicised under paragraph (a) up to date.

(11) A local education authority may charge in respect of anything provided by the authority under this section where the provision is to a qualifying young person (whether or not in the authority's area).

(12) In exercising their functions under this section a local education authority must have regard to any guidance given from time to time by the Secretary of State.

(13) In this section—

- "recreation" includes physical training (and "recreational" is to be construed accordingly);
- "sufficient", in relation to activities or facilities, means sufficient having regard to quantity;
- "well-being", in relation to a person, means his well-being so far as relating to—

(a) physical and mental health and emotional well-being;

- (b) protection from harm and neglect;
- (c) education, training and recreation;
- (d) the contribution made by him to society;
- (e) social and economic well-being.”

(2) Schedule 1 contains amendments related to the provision made by subsection (1).

508 Functions in respect of facilities for recreation and social and physical training.

(1) A local education authority shall secure that the facilities for primary, **[F1]** and secondary education] provided for their area include adequate facilities for recreation and social and physical training.

[F2](1A) A local education authority may provide facilities for recreation and social and physical training as part of the facilities for further education provided (whether or not by them) for their area.]

(2) **[F3]** For the purpose of subsection (1) or (1A)] a local education authority—

(a) may establish, maintain and manage, or assist the establishment, maintenance and management of,—

(i) camps, holiday classes, playing fields, play centres, and

(ii) other places, including playgrounds, gymnasiums and swimming baths not appropriated to any school or other educational institution,

at which facilities for recreation and social and physical training are available for persons receiving primary, secondary or further education;

(b) may organise games, expeditions and other activities for such persons; and

(c) may defray, or contribute towards, the expenses of such games, expeditions and other activities.

(3) When making arrangements for the provision of facilities or the organisation of activities in the exercise of their powers under subsection (2), a local education authority shall, in particular, have regard to the expediency of co-operating with any voluntary societies or bodies whose objects include the provision of facilities or the organisation of activities of a similar character.

APPENDIX 1

Statutory Guidance re Section 507b

Issued by the Department of Education, August 2012

**Statutory Guidance
for Local Authorities
on Services and Activities
to Improve Young People's Well-being**

This is statutory guidance issued by the Secretary of State for Education under Section 507B of the Education and Inspections Act 2006. It relates to local authorities' duty to secure services and activities for young people aged 13 to 19, and those with learning difficulties to age 24, to improve their well-being, as defined in Subsection 13.

Department for Education

June 2012

Rationale and scope of the duty

1. With the right supportive relationships, strong ambitions and good opportunities all young people can realise their potential and be positive and active members of society. Most get these from and through their families and friends, their school or college and their wider community enabling them to do well and to prepare for adult life. All young people benefit from additional opportunities and support, but some young people and their families, particularly the most disadvantaged and vulnerable, need specific additional and early help to address their challenges and realise their potential.
2. It is therefore local authorities' duty to secure, so far as is reasonably practicable, equality of access for all young people to the positive, preventative and early help they need to improve their well-being. This includes youth work and other services and activities that:
 - a. Connect young people with their communities, enabling them to belong and contribute to society, including through volunteering, and supporting them to have a voice in decisions which affect their lives;
 - b. offer young people opportunities in safe environments to take part in a wide range of sports, arts, music and other activities, through which they can develop a strong sense of belonging, socialise safely with their peers, enjoy social mixing, experience spending time with older people, and develop relationships with adults they trust;
 - c. support the personal and social development of young people through which they build the capabilities they need for learning, work, and the transition to adulthood – communication, confidence and agency, creativity, managing feelings, planning and problem solving, relationships and leadership, and resilience and determination;
 - d. improve young people's physical and mental health and emotional well-being;
 - e. help those young people at risk of dropping out of learning or not achieving their full potential to engage and attain in education or training; and
 - f. raise young people's aspirations, build their resilience, and inform their decisions – and thereby reducing teenage pregnancy, risky behaviours such as substance misuse, and involvement in crime and anti-social behaviour.

Responsibilities of local authorities

Involving young people

3. Local authorities must take steps to ascertain the views of young people and to take them into account in making decisions about services and activities for them, in line with Article 12 of the United Nations Convention on the Rights of the Child (UNCRC). They should establish and maintain structured arrangements for doing so. To inform continuous improvement, these arrangements should enable young people to inspect and report at least annually on the quality and accessibility of provision. As appropriate they should also be involved actively in service design, delivery and governance. Young people should receive the support they need to participate, ensuring representation of the full diversity of local young people, and those who may not otherwise have a voice.

Securing access to sufficient services and activities

4. The Government will not prescribe which services and activities for young people local authorities should fund or deliver or to what level. They should take the strategic lead to work with young people; the voluntary, community and social enterprise sector; health and wellbeing boards; schools and colleges; and agencies including health and police to:
 - a. understand the needs of local young people, particularly the needs of the most disadvantaged and vulnerable, taking full account of equality and diversity issues;
 - b. enable parents and communities to meet young people's needs wherever possible, and engage businesses and other employers to contribute funding and expertise to help enhance and sustain local provision;

- c. plan how aspirational personal and social development programmes, including National Citizen Service, and youth work and youth workers can contribute to meeting the needs of young people and reduce demand for more specialist services;
 - d. determine the mix of open access, targeted, preventative and specialist provision needed to meet local needs, and how to integrate all services around young people;
 - e. decide what facilities are needed and how to make these available and accessible, wherever possible maximising the utilisation and potential of all local partners' assets including any Myplace centres and other high quality youth facilities;
 - f. determine which services and facilities need public funding and which can be secured through other means so that public funding is targeted primarily on young people at risk of poor outcomes;
 - g. determine which services and facilities can be delivered by third parties so that the local authority delivers directly only where it is clearly best placed to do so;
 - h. plan how to best support and grow the role of voluntary, community, and faith organisations, including through a transparent commissioning process, given the benefits the sector can bring to work with young people, families and communities;
 - i. agree priorities for publically funded services and facilities with local partners and how these can be most effectively and efficiently delivered, including considering with their employees the options for them to set up and transfer into a public service mutual in line with their 'Right to Provide';
 - j. ensure providers have the capacity and skills to deliver effective services to young people, by learning from good practice and developing their workforce;
 - k. publicise effectively to young people and their families the overall local offer of all services and activities available for young people locally;
 - l. put in place actively-managed systems for assuring the quality of local services and driving improvement, including in response to feedback from young people,
 - m. publish at least annually details of the feedback young people have given on the quality of the local offer and of how they have influenced local decisions; and
 - n. publish at least annually, in a form that enables young people and others to hold them to account, their plans for improving young people's well-being and personal and social development, together with relevant funding and performance data.
5. Local authorities are responsible for securing, so far as is reasonably practicable, a local offer that is sufficient to meet local needs and improve young people's well-being and personal and social development – having regard to the general principles of the UNCRC. They should strive to secure the best possible local offer within available resources, reviewing the sufficiency of the offer if it does not result in positive feedback from young people on the adequacy and quality of local provision and positive trends in qualitative and quantitative data that are indicative of local young people's well-being and personal and social development.
 6. Local authorities should do all that is reasonably practicable to secure a sufficient local offer for young people, including:
 - a. acting on all of the considerations in this and other relevant statutory guidance;
 - b. benchmarking their approach and performance relative to other similar areas to identify how they might improve impact and cost-effectiveness; and
 - c. drawing on available support and challenge to drive continuous improvement in the quality and impact of local services, including from the local authority sector nationally.