

PROTOCOL FOR ELECTED MEMBER/EDUCATION LEEDS RELATIONS

ARRANGEMENTS APPROVED BY THE STANDARDS COMMITTEE AND THE BOARD DIRECTORS OF EDUCATION LEEDS

1. INTRODUCTION

- 1.1. Education Leeds carry out certain education functions on behalf of the Council. An Agreement made between the Council and Education Leeds sets out which functions Education Leeds will carry out.
- 1.2. The purpose of this protocol is to guide Members¹ and officers of Education Leeds in their relations with one another in such a way as to ensure the smooth running of the Council and Education Leeds and to foster good working relationships.
- 1.3. This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. Given the variety and complexity of relations between Members and officers of Education Leeds this Protocol does not seek to be comprehensive. It is hoped however that the framework it provides will serve as a guide to dealing with a range of circumstances.
- 1.4. The protocol seeks to reflect the principles underlying the respective codes of conduct which apply to Elected Members and those which Education Leeds adopts for its officers. The shared objective of these codes and this protocol is to enhance and maintain the integrity, both real and perceived, of Elected Members and officers of Education Leeds. Therefore, the protocol demands very high standards of personal conduct.
- 1.5. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that officers of Education Leeds are protected from accusations of bias and any undue influence from Members.
- 1.6. Members and officers of Education Leeds must at all times observe this protocol. This Protocol is a local extension of the Member's and Employee's Codes of Conduct. Consequently a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 1.7. This Protocol should be read in conjunction with those Codes, the Council's Constitution and any guidance issued by the Standards Committee and/or Monitoring Officer. It should be interpreted in accordance with the general principles applying to the conduct of Members as set out by Order of the Secretary of State. These are the principles of selflessness, honesty and integrity, objectivity, accountability, openness, personal judgement, respect for others, duty to uphold the law, stewardship and leadership.

¹ Unless the context indicates otherwise, the terms Member and Members include non-elected i.e. co-opted Members as well as elected councillors.

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- 1.8. The City Council already has a detailed protocol for Member/Officer Relations. This document includes the relevant aspects of the City Council's protocol and the specific matters arising as a consequence of the establishment of Education Leeds.
- 1.9. One of the aims of this protocol is to emphasise the important and legitimate role that Elected Members have in regard to the delivery of education support services. It also confirms that Elected Members have the right to be supplied by Education Leeds with such information, explanation and advice, about the education functions provided on behalf of the Council by the Company, as they may reasonably need to assist them in discharging their role as Members of the Council in either their executive, scrutiny or representative roles.

2. THE ROLE OF MEMBERS

- 2.1. Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.
- 2.2. At all times Members should be aware that the role they are performing may impact upon the nature of their relationship with officers and the expectations that officers may have of them.
- 2.3. Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.
- 2.4. Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
- 2.5. Every Member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.
- 2.6. Some Members have roles relating to their position as members of the Executive, Scrutiny Boards, Area Committees or other committees and sub-committees of the Council.
- 2.7. Members serving on Scrutiny Boards monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health service provision.
- 2.8. Members serving on Area Committees work to promote and improve the economic, social and environmental well-being of the Committee's area and exercise Area Functions. In addition they advise the Council in relation to local community interests and proposals affecting the committee's area.

- 2.9. Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters which by law are excluded from the remit of the Executive.
- 2.10. Some Members may be appointed to represent the Council on local, regional or national bodies.
- 2.11. As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.
- 2.12. Members are not authorised to instruct officers of Education Leeds other than:
 - 2.12.1. through the formal decision-making process;
 - 2.12.2. to request the provision of consumable resources provided by the Council for Members' use².
- 2.13. Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
- 2.14. Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their code of conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the Chief Finance Officer.
- 2.15. Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.

3. THE ROLE OF OFFICERS

- 3.1. Under the direction and control of the Board of Education Leeds, officers manage and provide the Council's services within the framework of responsibilities delegated to them in accordance with the Agreement. This includes the effective management of employees and operational issues.
- 3.2. Officers of Education Leeds have a duty to implement decisions of the Council which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and duly minuted.
- 3.3. Officers of Education Leeds have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- 3.4. From time to time officers of Education Leeds are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.

² See further paragraph 6.4

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- 3.5. Officers of Education Leeds must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions. Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
- 3.6. Officer of Education Leeds have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on officers' involvement in political activities.

4. RESPONSIBILITIES

- 4.1. Elected Members are elected by and accountable to the public, and serve for only as long as their term of office lasts³. Officers of Education Leeds are employed directly by the Company, and not the City Council, and are responsible for delivering a range of educational services in accordance with the Agreement with the City Council. Officers of Education Leeds are responsible to the Board of the Company i.e. there is no direct officer responsibility between officers of Education Leeds and the City Council.
- 4.2. Generally, Education Leeds is required to report certain matters to the Council for consideration. It needs to consult with Elected Members in terms of work associated with policy and strategy development and to report on performance against the Agreement on a regular basis. Education Leeds also has direct contact with Ward Members in their role as community representatives.
- 4.3. The conduct of Members and officers should be such as to instil mutual confidence and trust. The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 4.4. At the heart of the Codes, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party. The use of more extreme forms of behaviour and emotion is rarely conducive to establishing mutual respect and is not a basis for constructive discussion.
- 4.5. Informal and collaborative two-way contact between Members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection. Inappropriate relationships can be inferred from language/behaviour. Close personal familiarity between individual Members and Officers can damage the relationship of mutual respect and prove embarrassing to other Members and Officers. To protect both Members and officers, officers should

³ For a more detailed description of the role of Members see the Protocol on Member/Officer Relations in Part 5 of the Council's Constitution.

address Members as 'Councillor XX/Lord Mayor, save where circumstances clearly indicate that a level of informality is appropriate, e.g. a one to one meeting between a Director and their respective Executive Member.

- 4.6. Members and officers of Education Leeds should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 4.7. It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.
- 4.8. A Member should not raise matters openly or through the media relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol and particularly in relation to any pending or ongoing complaint or disciplinary process involving the officer. This is a long-standing tradition in public service. An Officer has no means of responding to such criticisms in public. Furthermore, open criticism may prejudice the bringing of disciplinary proceedings in circumstances where this might otherwise be appropriate.
- 4.9. A Member who feels s/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an officer of Education Leeds should:
 - 4.9.1. avoid personal attacks on, or abuse of, the officer at all times,
 - 4.9.2. ensure that any criticism is well founded and constructive,
 - 4.9.3. never make a criticism in public, and
 - 4.9.4. take up the concern with the officer privately.
- 4.10. If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, s/he should raise the matter with the Chief Executive of Education Leeds. The Chief Executive will then look into the facts and report back to the Member. Any action taken against an Officer of Education Leeds in respect of a complaint will be in accordance with the provisions of the Education Leeds' Disciplinary Rules and Procedures.
- 4.11. Challenge in a constructive and non-confrontational way is important in ensuring policies and service performance are meeting the Council's strategic objectives, especially during the Scrutiny process. Nothing in paragraph 4 is therefore intended to stop Members holding officers of Education Leeds to account for decisions made under delegated powers. Officers of Education Leeds may be required to report to and answer questions from a Scrutiny Board.

- 4.12. Where an officer of Education Leeds feels that s/he has not been properly treated with respect and courtesy by a Member, s/he should raise the matter with the Chief Executive of Education Leeds, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Chief Executive of Education Leeds will after consultation with the complainant take appropriate action either by approaching the individual Member and/or group leader or by referring the matter to the Director of Legal and Democratic Services in the context of the Standards Committee/Board considering the complaint.

5. THE RELATIONSHIP: OFFICER SUPPORT TO MEMBERS: GENERAL POINTS

- 5.1. Officers of Education Leeds are responsible for day-to-day managerial and operational decisions within the Company and Members should avoid inappropriate involvement in such matters.
- 5.2. The following key principles reflect the way in which the officers of Education Leeds generally relate to Members:
- 5.2.1. all officers of Education Leeds are employed by the company, and are accountable to the Board of Education Leeds;
- 5.2.2. they have a duty to implement the properly authorised decisions of the Council as required in accordance with the Agreement;
- 5.2.3. support from officers of Education Leeds may be needed by Members in all the Council's functions including Full Council, Scrutiny Boards, the Executive, Regulatory Panels, individual Members representing their communities etc;
- 5.2.4. day-to-day managerial and operational decisions remain the responsibility of the Chief Executive of Education Leeds and other officers;
- 5.2.5. Officers will be provided with training and development to help them support the various Member roles effectively and to understand the structures.
- 5.3. On occasion, a decision may be reached which authorises named officers of Education Leeds to take action following consultation with a Member or Members. The Member or Members may offer his/her views or advice to the officer who must take them into account. The Member or Members must not apply inappropriate pressure on the officer. The decision remains the responsibility of the officer him/herself. It must be recognised that it is the officer, rather than the Member or Members, who takes the action and it is the officer who is accountable for it.
- 5.4. It must be remembered that Officers of Education Leeds are accountable to their Board, through appropriate line management. That is, officers work to the instructions of their senior officers, not individual Members. It follows that, whilst such officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their managers.

- 5.5. Whilst officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given. Where appropriate, officers of Education Leeds should make a Member aware of the limits of the Officer's authority and explain that the matter would have to be referred to the Chief Executive of Education Leeds.
- 5.6. Officers of Education Leeds will do their best to give timely responses to Members' enquiries. Officers' work priorities are set and managed by senior managers. Members should avoid disrupting officers' work by imposing their own priorities.
- 5.7. Members will endeavour to give timely responses to enquiries from officers⁴.
- 5.8. An officer of Education Leeds shall not discuss with a Member personal matters concerning him/herself or another individual employee. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward Member.
- 5.9. Members and officers of Education Leeds should respect each other's free (i.e. non-Council) time.

6. THE RELATIONSHIP:- OFFICER SUPPORT TO POLITICAL PARTY GROUPS

- 6.1. It must be recognised by all Members and officers of Education Leeds that in discharging their duties and responsibilities officers of Education Leeds provide services for the Council as a whole and not any political group, combination of groups or any individual member of the Council.
- 6.2. There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers of Education Leeds may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All officers of Education Leeds must in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.
- 6.3. The support provided by officers can take many forms, ranging from a briefing meeting with an Executive Member, Lead Member, Chair, Opposition Leader or spokesperson prior to a committee or Council meeting to a presentation to a full party group meeting. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 6.4. Certain points must, however, be clearly understood by all those participating in this type of process, Members and officers of Education Leeds alike. In particular:
 - 6.4.1. Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in

⁴ See further paragraph 14 in respect of correspondence.

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advising on matters of party business. The observance of this distinction will be assisted if officers are not present at meetings or parts of meetings, when matters of party business are to be discussed;

- 6.4.2. party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such;
- 6.4.3. the presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so;
- 6.4.4. where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.
- 6.5. Special care needs to be exercised whenever officers of Education Leeds are requested to provide information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Members' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, officers may not be able to give the same level of advice as they would to a Members only meeting.
- 6.6. Officers of Education Leeds have the right to refuse a request to attend a party group and will normally not attend a meeting of a party group where some of those attending are not Members of the Council.
- 6.7. The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
- 6.8. An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.
- 6.9. An officer of Education Leeds who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on his/her behalf.
- 6.10. An officer of Education Leeds should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.
- 6.11. No member will refer in public or at meetings of the Council to advice or information given by officers of Education Leeds to a party group meeting.

- 6.12. Officers of Education Leeds must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group or to any other Members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.
- 6.13. It must not be assumed by any party group or Member that any officer of Education Leeds is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.
- 6.14. Any particular cases of difficulty or uncertainty in this area of officer advice to party groups should be raised by the Chief Executive of Education Leeds with the Chief Executive of the Council who will discuss them with the relevant group leader(s).

7. SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS

- 7.1. The only basis on which the Council and, hence, Education Leeds, should provide support services (e.g. stationery, typing, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council related business. They should never be used in connection with party political or campaigning activity or for private purposes.
- 7.2. It will be a matter for the Chief Executive of Education Leeds to determine who shall provide advice/support to such party political groups.

8. THE RELATIONSHIP: OFFICER SUPPORT TO EXECUTIVE BOARD

- 8.1. Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an officer of Education Leeds will be under a professional duty to submit a report. Similarly, the Chief Executive of Education Leeds or other senior officer will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between an Executive Member and a senior officer in this area should be referred to the Chief Executive of Education Leeds for resolution.
- 8.2. Where functions which are the responsibility of the Executive are delegated to officers or other structures outside the Executive, the Executive will nevertheless remain accountable to the Council for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out. The Overview and Scrutiny Committee may call in and review the decisions of the Executive Board and officers acting under delegated authorities and report the outcome of its review to Council, the Executive Board and Officers as appropriate.

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- 8.3. As the majority of the authority's functions are the responsibility of the Executive, it is likely that in practice many officers of Education Leeds will be working on Executive functions for most of their time. The Executive must respect the political neutrality of the Officers of Education Leeds. Officers of Education Leeds must ensure that, even when they are predominantly providing advice and assistance to the Executive, their political neutrality is not compromised.

9. THE RELATIONSHIP:-THE ROLE OF EXECUTIVE MEMBER IN EDUCATION LEEDS

- 9.1. The role of an Executive Member is to promote and co-ordinate the Council's activities which contribute towards achieving the relevant corporate plan objectives. In the case of Education Leeds, an Executive Member will, from time to time, be assigned with responsibility for school-based education functions and, therefore, will be the main point of contact for matters that Education Leeds is required to refer to the Council's Executive Board for consideration.
- 9.2. The Chief Executive of Education Leeds will be the principal officer responsible for briefing the Executive Member on matters being referred by the Company to the Council's Executive Board for consideration.
- 9.3. The Executive Member should be kept informed of key educational issues, such as education policy and strategy developments, and any sensitive or significant matters that should legitimately be communicated to the Executive Member. The Chief Executive of Education Leeds will be responsible for agreeing with the Executive Member an appropriate frequency of meetings to progress and discuss such relevant issues.
- 9.4. There is a potential for tension or conflict arising between the Chief Executive of Education Leeds and the Executive Member. The Chief Executive of Education Leeds and the Executive Member need to be constantly aware of such tensions arising and need to work together to avoid such tensions or conflicts existing or being perceived.
- 9.5. Any officer of Education Leeds specifically requested to brief the Executive Member may do so with the prior approval of the Chief Executive of Education Leeds and, therefore, any requests for ad-hoc briefings will need to be through the Chief Executive of Education Leeds.
- 9.6. It is clearly important that there should be a close working relationship between the Executive Member and the Chief Executive of Education Leeds and other senior officers as appropriate. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other Members and other party groups.
- 9.7. Finally, it must be remembered that officers within Education Leeds are accountable to the Chief Executive of Education Leeds and that whilst officers should always seek to assist an Executive Member (or indeed any Member) they must not, in so doing, go beyond the bounds of whatever authority they have been given by the Chief Executive of Education Leeds.

- 9.8. Executive members will take decisions in accordance with the Constitution and will not otherwise direct officers of Education Leeds. Senior officers of Education Leeds will be responsible for instructing more junior officers to implement the Executive's decisions.
- 9.9. Officers of Education Leeds should consider whether policy or briefing papers, or other topics being discussed with an Executive Member, should be referred to the relevant Area Committee for consideration. Officers should seek the views of the Executive Member as to with whom and when this might be done.

10. THE RELATIONSHIP:- THE ROLE OF LEAD MEMBERS IN EDUCATION LEEDS

- 10.1. An Executive Member may be assigned Lead Members to assist with specific aspects of their portfolio by carrying out policy development work. The Executive Member is required to identify time-limited tasks for Lead Members for which the Executive Member will draw up a specific brief.
- 10.2. Any contact with officers of Education Leeds shall be only in accordance with the agreed Lead Member brief and the specific area of policy development work identified. The Chief Executive of Education Leeds shall be the responsible officer for agreeing any briefing requirements that are required, from time to time, for relevant Lead Members.
- 10.3. Any requests from a Lead Member for information or briefings shall be through the Chief Executive of Education Leeds and shall only relate to policy matters which are contained in the agreed Lead Member brief.
- 10.4. It is clearly important that there should be a close working relationship between Lead Members and the Chief Executive of Education Leeds and other senior officers as appropriate. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other Members and other party groups.
- 10.5. Finally, it must be remembered that officers within Education Leeds are accountable to the Chief Executive of Education Leeds and that whilst officers should always seek to assist a Lead Member (or indeed any Member) they must not, in so doing, go beyond the bounds of whatever authority they have been given by the Chief Executive of Education Leeds.

11. THE RELATIONSHIP:- OFFICER SUPPORT TO SCRUTINY BOARDS

- 11.1. The Scrutiny Board from time to time responsible for education matters will be involved in monitoring the performance of Education Leeds and will undertake inquiries into educational policy and strategy issues.

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- 11.2. The Agreement between the Council and Education Leeds specifies when and in what circumstances the company is obliged to report to Scrutiny. The relevant Scrutiny Board will from time to time prepare a work programme which should seek to ensure that Education Leeds are aware of the likely demands to be made on their resources.
- 11.3. In receiving reports on the performance of Education Leeds, officers of the Company will be expected to attend Scrutiny Board meetings to answer Members' questions regarding the Company's performance. The Board may also wish to take advice from the Council's Director of Children's Services in scrutinising the Company's performance. It is also expected that Scrutiny will be involved in setting future performance targets, and Members of the Scrutiny Board have an input to this review process. The ongoing monitoring of such information is critical in this process.
- 11.4. In regard to inquiries, Scrutiny Boards have the ability to carry out Inquiries relating to education policy issues (which remain the responsibility of the Council), school performance, education initiatives and the provision of education support services. Scrutiny can call for reports and witnesses to support its Inquiries.
- 11.5. The Chief Executive of Education Leeds will, in the same manner that Council Directors are required to do⁵, provide information to Scrutiny Boards and attend or send appropriate representatives to meetings. In respect of inquiries which relate to services provided (or functions discharged) by Education Leeds, the Company is required to provide such information about the affairs of the Company as is reasonably required (by Members) for the proper discharge of their duties – refer to paragraph 16.0 of this protocol.
- 11.6. Provisions relating to the attendance of officers at a Scrutiny Board are set out in the Scrutiny Board Procedure Rules, In addition Members and officers of Education Leeds should consider the following guidelines in respect of attendance at Scrutiny Boards:-
- 11.6.1. Members should not normally expect junior officers to give evidence. All requests should be made to senior officers in the first instance.
- 11.6.2. When making requests for officer attendance, Scrutiny Board Members shall have regard to the workload of officers.
- 11.6.3. It is recognised that officers required to appear before a Scrutiny Board may often be those who have advised the Executive or another part of the Council on the matter under investigation. Any requirement for external support will be dealt with in accordance with the Scrutiny Board Procedure Rules guidance notes.
- 11.6.4. Officers should be prepared to justify advice given to the Council, the Executive, or other committees and sub-committees even when the advice was not accepted.

⁵ For further guidance in this regard see the Scrutiny Board Procedure Rules and Paragraph 10 of the Protocol on Member/Officer Relations.

- 11.6.5. In giving evidence, officers must not be asked to give political views.
- 11.6.6. Officers should respect Members in the way they respond to Members' questions.
- 11.6.7. Members should not question officers in a way which could be interpreted as harassment.
- 11.6.8. Scrutiny proceedings must not be used to question the capability or competence of officers. Members need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of officers.
- 11.6.9. Officers and Members should be aware of the following government guidance relating to Scrutiny Boards, and specifically their scrutiny role:
- Officers' evidence should so far as possible, be confined to questions of fact and explanation relating to policies and decisions.
 - Officers may explain: what the policies are; the justification and objectives of those policies as the Executive sees them; the extent to which those objectives may have been met and how administrative factors may have affected both the choice of policy measures and the manner of their implementation.
 - Officers may, and in many cases should, be asked to explain and justify advice they have given to Members of the Executive prior to a decision being taken and they should also be asked to explain and justify decisions they themselves have taken under delegations from the Executive.
 - As far as possible, officers should avoid being drawn into discussion of the merits of alternative policies where this is politically contentious. Any comment by officers on the Executive's policies and actions should always be consistent with the requirement for officers to be politically impartial.
- 11.6.10. In connection with the Scrutiny Boards Policy Development and Review role, Officers may reasonably be expected to advise on the effects which would arise out of the adoption of alternative policy options. Any advice on the development of policies should be consistent with the requirement for officers to be politically impartial.
- 11.6.11. It is not a Scrutiny Board's role to act as a disciplinary tribunal in relation to the actions of Members or Officers. Neither is it the role of officers to become involved in what would amount to disciplinary investigations on behalf of a Scrutiny Board. This is the Chief Executive's function alone in relation to officers and the Monitoring Officer's and the Standards Committee's functions as regards the conduct of Members.

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- 11.6.12. Scrutiny Board's questioning should be directed towards establishing the facts about what occurred in the making of decisions or implementing Council policies, and not towards the allocation of criticism or blame. A Scrutiny Board may recommend (but not require) the Chief Executive to institute a formal enquiry for this purpose.
- 11.6.13. The Scrutiny Board Procedure Rules set out general principles relating to all Scrutiny Board witnesses, including notification requirements. If questioning should stray substantially outside the matters that the Board had previously indicated, the Chair should consider whether an adjournment may need to be considered to enable officers to provide the required information. Questioning should not stray outside any Terms of Reference agreed for an Inquiry.
- 11.7. Where a Scrutiny Board wishes to make recommendations regarding functions that fall entirely to the responsibility of Education Leeds, the Company will have full discretion to decide whether or not to comply with the recommendations. Within the spirit of Scrutiny, any instance of the Company refusing to act on Scrutiny recommendations should be rare and in the majority of cases recommendations made are expected to be acceptable to the Company. It is also open to Scrutiny, in such circumstances, to take its recommendations to Executive Board with a request to Executive Board that consideration be given to agreement re-negotiations between the Council and Education Leeds to accommodate such recommendations.
- 11.8. Where a Scrutiny Board's recommendations relate to education policy, then they require approval by Executive Board. However, Members need to be aware that, where recommendations involve changes to services provided by Education Leeds under the Agreement with the Council then the Change Control Procedures set out in the Agreement may need to be followed.
- 11.9. The Board is able to make recommendations direct to the Director of Children's Services in relation to matters for which she retains responsibility. However, where such recommendations alter the provision of services under the Agreement, the Change Control Procedures should be followed as with Executive Board recommendations.

12. AREA COMMITTEES

- 12.1. Education Leeds will be required to co-ordinate with the work of area committees to ensure educational attainment and the role of schools form a clear part of the process of community planning⁶.
- 12.2. Area Committees must make decisions following consideration of a report from the relevant Director⁷ or his nominee. The Area Committee is entitled to request a report in relation to any matter within their terms of reference that the Area

⁶ The Area Committee Procedure Rules and Paragraph 11 of the Protocol on Member/Officer Relations give detailed guidance in relation to Area Committees.

⁷ In this case the Chief Executive of Education Leeds and/or the Director of Children's Services.

Committee wish to consider. Such requests should always be made to the relevant Director who may nominate another officer to provide the report if appropriate.

- 12.3. Officers who present reports to Area Committees may copy the report to such of the other Area Committees as they think fit if they are of the view that the report would be relevant to those Committees.
- 12.4. Area Committees may request that report authors attend meetings. When doing so they should have regard to the workload of the officer in question.
- 12.5. All questions addressed to officers attending Area Committees shall be addressed through the Chair of the Committee. Officers should not be questioned in such a way as could be interpreted as harassment. Neither should questions be asked which seek to address the capability or competence of officers.
- 12.6. The Area Committee Procedure Rules provide for an Open Forum⁸ for members of the public to make representations or ask questions on matters within the terms of reference of the Area Committee. The Chair of the Committee shall ensure that officers are only asked questions which pertain to their report.
- 12.7. Officers should respect Members in the way they respond to Members questions. If unable to provide a direct response to a question at an Area Committee meeting the officer shall respond in writing to the Committee Chair as soon as he is able.
- 12.8. Where advisory or consultative forums are established by the Area Committee Members and officers shall apply this guidance equally to their involvement in those groups.

13. THE RELATIONSHIP:- INVOLVEMENT OF WARD COUNCILLORS GENERALLY

- 13.1. Whenever a public meeting is organised by Education Leeds to consider a local issue, all the Elected Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever Education Leeds undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.
- 13.2. Whilst support for Members' ward work is legitimate, care should be taken if officers of Education Leeds are asked to accompany Members to ward surgeries. In such circumstances:
 - 13.2.1. the surgeries must be open to the general public, and
 - 13.2.2. officers should not be requested to accompany members to surgeries held in the offices or premises of political parties.
- 13.3. In seeking to deal with constituents' queries or concerns, Members should not seek to jump the queue but should respect the procedures of Education Leeds. Officers

⁸ See rules 6.24 and 6.25

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of Education Leeds have many pressures on their time. They may not be able to carry out the work required by Members in the requested time-scale, and may need to seek instructions from their managers.

14. THE RELATIONSHIP:- ELECTED MEMBERS IN OTHER ROLES

- 14.1. It should also be noted that Elected Members will, from time to time, undertake other roles which impact upon relationships with Education Leeds. This will particularly apply to the Executive Member and relevant Lead Member(s) but, in addition, other Elected Members will fall into this category through, for example, some Members also being Chairs of Governing bodies. It needs to be recognised that this can, potentially, be a cause for confusion between the respective roles, particularly for officers of Education Leeds.
- 14.2. The Chief Executive of Education Leeds will need to ensure that such other roles are clearly defined for officers of Education Leeds to ensure that officers are able to avoid confusion between the respective roles and the requirements of this protocol.
- 14.3. Elected Members should also make clear when making contact with Education Leeds the capacity (i.e. role) in which they are acting.
- 14.4. Where an Elected Member is acting in another capacity (e.g. Governor, Chair/participant of a partnership or consultative group), the same protocol arrangements apply, to avoid any potential confusion in the respective roles. So, for example, routine governor enquiries may be made direct to the Governors Unit but may need to be referred to the office of the Chief Executive of Education Leeds if the enquiry is considered to go beyond a routine request. The aim is to ensure that the enquiry is dealt with promptly and by an appropriately graded/experienced officer.

15. THE RELATIONSHIP: -CO-OPTED MEMBERS

- 15.1. Officers of Education Leeds should provide the same level of support to Co-opted Members of a Scrutiny Board or Committee, as they provide to other (elected) Members, for example by providing them with the same papers, briefings and training opportunities. Officers of Education Leeds and elected Members should afford Co-opted Members the same level of respect and opportunity to contribute (so far as their role permits them)

16. MEMBERS' ACCESS TO INFORMATION

- 16.1. Members have the ability to ask for information pursuant to their legal rights to information. Further details of these rights are set out in the Access to Information Procedure Rules.

16.2. Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the Member's duties as Member of the Council. This point is emphasised in the Members' Code of Conduct in the following terms:-

16.2.1. "A Member must not:

disclose information given to him/her in confidence by anyone or information acquired which s/he believes is of a confidential nature, without the consent of a person authorised to give it, or unless s/he is required by law to do so"

17. CORRESPONDENCE

17.1. Correspondence⁹ between an individual Member and an Officer should not normally be copied (by the officer) to any other Member. Where exceptionally it is necessary for an officer to copy the correspondence to another Member, the original Member will be advised before any such correspondence is copied. In other words, a system of 'silent copies' should not be employed. However, it may be appropriate in certain circumstances for Members to copy correspondence to an officer, for example to Ward colleagues.

17.2. Paragraph 17.1 above should not be taken to prevent the copying of correspondence where necessary as part of the background information when briefing an Executive or Lead Member in relation to the history of any matter. In addition it should be noted that the Council may have to release copies of correspondence in accordance with Freedom of Information Legislation¹⁰.

17.3. Official letters on behalf of Education Leeds should always be sent out over the name of the appropriate officer of Education Leeds and on no account should a letter from Education Leeds be sent in the name of an Elected Member. From time to time, it may be appropriate for officers of Education Leeds to draft a response on behalf of the Council. It will then be a matter for the Council, through the office of the Director of Children's Services, in consultation with the relevant Executive Member, to determine whether it is appropriate for the correspondence to be sent in the name of a Council officer or an Elected Member.

17.4. Letters which create legally enforceable obligations or which give Instructions on behalf of the Council should never be sent in the name of a Member.

17.5. When writing in an individual capacity as a ward Member, a Member must make clear that fact

⁹ "Correspondence" in this context means letters, memoranda, reports, advice, briefing notes or any other documentation prepared specifically by an officer for a Member

¹⁰ For details please see Access to Information Procedure Rules

18. ELECTED MEMBER ENQUIRIES

- 18.1. So far as the detailed arrangements for enquiries are concerned, the Board of Education Leeds have resolved that Elected Member requests for information and enquiries should generally be submitted via the office of the Chief Executive of Education Leeds. Systems and procedures are in place to ensure that such enquiries are properly monitored with the most appropriate officer being tasked with responding to each enquiry in a timely fashion¹¹. The aim of this arrangement is to ensure that an open and transparent system is in place to manage effectively Elected Member enquiries whilst ensuring Education Leeds responds promptly to all Member enquiries.
- 18.2. It is recognised, however, that a number of requests from Elected Members will relate to relatively routine issues which are likely to be most effectively dealt with, for example, through a quick telephone conversation with the officer/section concerned. Accordingly, in regard to such routine enquiries, Members will continue to be able, if they so wish, to contact the relevant officer/section direct by telephone. If the query is unable to be answered by a direct response, involves a degree of investigation/research or is considered to be beyond a routine request, the officer concerned will refer the matter to the office of the Chief Executive of Education Leeds where the enquiry can be dealt with under the more formal arrangements detailed at 18.1 above.

19. DECISIONS REQUIRED BY THE COUNCIL

- 19.1. Schedule 2 to the Agreement between the Council and Education Leeds sets out responsibility for functions¹².
- 19.2. Decisions referred by Education Leeds to the City Council are either considered by the Council's Director of Children's Services or referred to the Council's Executive Board for consideration. Where matters are to be referred to the Council's Executive Board for consideration, then there is likely to be a need for referral to the relevant Executive Member prior to being forwarded to the Executive Board for formal consideration – this consultation will be undertaken by either the Chief Executive of Education Leeds or the Director of Children's Services as is considered appropriate from time to time.
- 19.3. Whilst an Executive Member (or, for example, a Lead Member or Chair of a Scrutiny Board) will routinely be consulted as part of the process of drawing up reports for a forthcoming meeting, it must be recognised that in some situations the Chief Executive of Education Leeds will be under a duty to submit a report on a particular matter. Similarly, the Chief Executive of Education Leeds will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between an Executive Member (or a Lead Member or Chair of a Committee) and the Chief Executive of Education Leeds in this area should be referred to the Council's Chief Executive.

¹¹ Education Leeds has adopted a standard for elected Member enquiries.

¹² Copies of the Agreement are held by the Chief Executive of Education Leeds and the Director of Children's Services.

- 19.4. It is important to remember that the Council's constitution only allows for decisions relating to the discharge of any of the authority's functions, to be taken by a committee, sub-committee or an officer. The constitution does not allow for such decisions to be taken by an Executive Member or indeed by any other single Elected Member.

20. ACCESS TO PREMISES

- 20.1. Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.
- 20.2. Members have a right of access to Council land and premises to fulfil their duties.
- 20.3. When making visits as individual Members, Members should:
- 20.3.1. whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
 - 20.3.2. comply with health and safety, security and other workplace rules;
 - 20.3.3. not interfere with the services or activities being provided at the time of the visit;
 - 20.3.4. if outside his/her own ward, notify the ward Members beforehand; and
 - 20.3.5. take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

21. BREACHES OF THE PROTOCOL

- 21.1. Allegations of breaches of this Protocol by Members may be referred to the Director of Legal and Democratic Services for referral to the Standards Committee, the relevant Leader and/or Chief Whip of the political group. However, in certain circumstances a breach of this protocol might constitute a breach of the Members' Code of Conduct, in which case a written complaint would be referred to the Standards Board for England.
- 21.2. Allegations of breaches by Officers of Education Leeds are to be referred to the Chief Executive of Education Leeds for consideration of appropriate action including disciplinary investigation under the Company's disciplinary rules.

22. MONITORING

- 22.1. The Director of Legal and Democratic Services will report annually to the Standards Committee regarding whether the arrangements set out in the Protocol have been complied with and will include any proposals for amendments in the light of any issues that have arisen during the year. In particular the Director of Legal and Democratic Services will monitor the following:
- 22.1.1. The number of complaints made about breaches of the Protocol and the outcomes of those complaints;
 - 22.1.2. Whether the Protocol has been considered as part of Member/Officer induction training;
 - 22.1.3. The level of awareness of the Protocol among Members and Officers, to be established by means of an ethical audit;
 - 22.1.4. External inspection reports in respect of any relevant issues arising;
 - 22.1.5. Changes to legislation which may affect the provisions of the Protocol.

23. IMPLEMENTATION AND INTERPRETATION

- 23.1. This Protocol was drafted by the Director of Legal and Democratic Services, and adopted by the Standards Committee as part of the Constitution and approved by the Board of Education Leeds.
- 23.2. The Protocol will be made available on the Council's internet and intranet sites.
- 23.3. Questions of interpretation of this Protocol will be determined by the Director of Legal and Democratic Services.

FUNCTIONS OF LEEDS CITY COUNCIL (THE LA) and EDUCATION LEEDS

1. FUNCTIONS DISCHARGED BY BOTH THE LA AND EDUCATION LEEDS

- to exercise their functions with a view to promoting high standards in primary and secondary schools (section 13A, EA 1996);
- to prepare and implement an EDP setting out the LA's proposals for raising the standards of education for children or improving the performance of such schools in consultation with governing bodies and head teachers of every maintained school, the appropriate diocesan authority for any foundation or voluntary school and such other persons as they consider appropriate and submit the plan to the Secretary of State (section 6, SSFA 1998);
- to prepare a scheme dealing with matters connected with the financing of maintained schools, setting arrangements for the allocation and use of budgets, for approval by the Secretary of State, and to keep the scheme under review (section 48 and Schedule 14, SSFA 1998);
- to establish a schools' forum, representing the governing bodies and headteachers of schools, to advise on the schools' budget, as set down in Regulations (section 47A, SSFA 1998).
- to comply with any direction of the Secretary of State where he is satisfied that the LA is unlikely to be effective in eliminating deficiencies in schools in special measures or with serious weaknesses, or has a disproportionate number of such schools, to obtain, by contract or other arrangement, specified advisory services (section 63, EA 2002).

Furthermore, LAs are responsible for forecasting future pupil numbers and thus future demand for school places. Section 26 of the School Standards and Framework Act 1998 requires LAs to prepare and publish a School Organisation Plan for their area. The plan will require the approval of the school organisation committee or the adjudicator.

- to ensure that schools in its area are sufficient in number, character and equipment to provide education suitable for the different ages, abilities and aptitudes and special educational needs of pupils of school age (section 14, EA 1996);

2. FUNCTIONS DISCHARGED BY THE LA

- to comply with any direction of the Secretary of State where the LA is found to be acting or proposing to act unreasonably (section 496, EA 1996);
- to comply with any direction of the Secretary of State where the LA has failed to discharge a duty (section 497, EA 1996);
- to accept a direction of the Secretary of State to an LA officer to carry out a function where the LA has been found to be failing to perform that function to an adequate standard or a direction that the function is to be exercised by the Secretary of State or his nominee (section 497A/AA, EA 1996, as amended by section 60, EA 2002);

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- to meet all the expenses of maintaining a school, except certain premises and equipment costs in the case of voluntary aided schools (section 22, SSFA 1998);
- to act in accordance with employment law and to seek to ensure that governing bodies of schools where it employs the staff also do so, for example in relation to appointment, discipline and dismissal;
- to appoint a fit person to be a chief education officer (section 532, EA 1996); and
- to publish the broad aims of the local education authority's policy in respect of children with special educational needs together with information about the action the authority is taking to:
 - (m) promote high standards of education for children with special educational needs;
 - (n) encourage children with special educational needs to participate fully in their school and community and to take part in decisions about their education;
 - (o) encourage schools in their area to share their practice in making special educational provision for children with special educational needs; and
 - (p) work with other statutory and voluntary bodies to provide support for children with special educational needs.
- to secure sufficient nursery education provision for their area (section 118, SSFA 1998);
- to have regard to any guidance given by the Secretary of State as to requirements to be met by a funded provider of nursery education (section 153, EA 2002);
- to establish a school organisation committee for their area in accordance with regulations made by the Secretary of State (section 24, SSFA 1998);
- to provide accommodation, appropriate services and meet with the school organisation committee's expenses (Schedule 4, paragraph 4, SSFA 1998);
- to provide adequate facilities for recreation and social and physical training (section 508, EA 1996);
- to publish proposals where the LA intends to establish a new school, cease to maintain a school, make a prescribed alteration including the transfer of the school to a new site, or enlarge its premises significantly (sections 28-35 and schedules 6-8, SSFA 1998)
- Section 15A and 15B were inserted into the EA 1996 by the SSFA and LSA. Under section 15A, a LA may secure the provision for their area of full time or part-time education suitable to the requirements of persons over compulsory school age who have not yet attained the age of 19, including provision for persons from other areas. Section 15 B gives the same power in relation to persons who have attained the age of 19.
- to provide education for pupils under five (section 17, EA 1996);
- to establish, and maintain, primary and secondary schools (section 16, EA 1996);
- to establish an Admissions Forum for their area to discuss and reach local agreement on admission issues. (See the School Admissions Code of Practice: SSFA 1998 as amended by section 46 EA 2002 – SI 2002/2900);

- to determine admission arrangements for community and voluntary aided schools, unless they have delegated authority to the governing body;
- to provide clothing for pupils at school (sections 510-511, EA 1996); and
- to provide financial assistance (including maintenance allowances for pupils aged 16-19) to enable pupils to take advantage of educational facilities (section 518, EA 1996).
- to provide lunches where requested by parents, subject to certain conditions (section 512, EA 1996); and
- to make available free facilities for pupils to consume meals and other refreshment they bring to school (section 512, EA 1996).
- to provide meals and milk for pupils other than those entitled to free school meals or milk at a charge (section 512, EA 1996);
- to review annually the sufficiency of childcare provision and provide information to the public (section 118A, SSFA 1998).
- to establish an Early Years Development and Childcare Partnership for their area to review the sufficiency of the provision of nursery education in the LA's area and work with the partnership in the preparation of early years development plans (section 119, SSFA 1998); and
- to prepare (in conjunction with the Early Years Development and Childcare Partnership) and submit an early years plan for their area to the Secretary of State for approval, and comply with any requests for its amendment (sections 120-121, SSFA 1998).

3. FUNCTIONS DISCHARGED BY EDUCATION LEEDS

- to prepare a statement of planned expenditure, and a statement of actual expenditure and resources (section 52, SSFA 1998);
- to allocate and monitor the spending of specific grants which the LA receives, such as those under the Standards Fund (section 484, EA 1996);
- to determine and publish a policy on any charges and remission of charges to be made for optional out-of-school activities (section 457, EA 1996);
- to determine the local schools budget and individual school's budget (section 45A, SSFA 1998);
- to comply with a notice or an Order of the Secretary of State in determining the school's budget (sections 45B and 45C, SSFA 1998); and
- to suspend delegation of a budget if the governing body does not manage the budget satisfactorily or fails substantially or persistently to comply with any delegation requirement or restriction (section 51 and Schedule 15, SSFA 1998).
- to exercise its functions with a view to securing that the curriculum for each school is balanced and broadly based, promotes the spiritual, moral, cultural, mental and physical

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development of pupils at the school and of society, and prepares pupils for the opportunities, responsibilities and experiences of adult life (section 79, EA 2002);

- to exercise its functions with a view to securing that the National Curriculum is taught and statutory assessments carried out (sections 87-89, EA 2002);
- to establish a Standing Advisory Council on Religious Education and adopt an agreed syllabus for the teaching of religious education (sections 375, 390 and Schedule 31, EA 1996);
- to exercise its functions with a view to securing that community, foundation and voluntary schools provide for religious education and collective worship (sections 69-71 and Schedule 19-20, SSFA 1998);
- to forbid the pursuit of partisan political activities by pupils of primary school age and the promotion of partisan political views in the teaching of pupils of any age, and to take steps to ensure that where political issues are brought to the attention of pupils they are offered a balanced presentation of opposing views (sections 406-407, EA 1996); and
- to make arrangements for the consideration of complaints about the curriculum and related matters in the schools the LA maintains (section 409, EA 1996).
- to have regard to the statutory Code of Conduct on LA-School Relations (section 127, SSFA 1998).
- to provide the LA's statement of action and comment on the action plan produced by the governing body of any of its schools requiring special measures after an inspection under the School Inspections Act 1996 (section 18, SIA 1996);
- to prepare the action plan of any school without a delegated budget requiring special measures (section 17, SIA 1996);
- to give a warning notice to the governing body of a maintained school where the LA is satisfied that the standards of performance of pupils are unacceptably low, where there has a serious breakdown in the way the school is managed or governed or where the safety or pupils or staff of the school is threatened (section 15, SSFA 1998, as amended by section 55, EA 2002); and
- to appoint additional governors to the governing body, or to give notice that the governing body is to consist of interim executive members, of a maintained school which is subject to a warning notice, has serious weaknesses or requires special measures (sections 16 & 16A and schedule 1A, SSFA 1998, as amended by section 57, EA 2002);
- to suspend the right to a delegated budget where a school is subject to a formal warning, has serious weaknesses or requires special measures (section 17, SSFA 1998);
- to cause inspections of schools which the LA maintains, for the specific purpose of obtaining information in connection with the exercise of any power or the performance of any duty of the LA and where it is not reasonably practicable to obtain the information in any other manner (section 25, SIA 1996); and
- to provide a school inspection service for section 10 and section 23 SIA inspections within their area which may or may not be maintained by the LA and the inspection service shall be operated in such a way as can reasonably be expected to secure that the full cost of

providing the service is recovered by way of charges made by the authority to those using the service (section 24, SIA 1996).

- to have regard to the provisions of the statutory SEN Code of Practice (section 313, EA 1996);
- in accordance with the SEN Code of Practice and the Special Educational Needs (Provision of Information by Local Education Authorities) (England) Regulations 2001 to establish a policy on special educational needs, and to provide written information to parents;
- to keep its SEN arrangements and policy under review (section 315, EA 1996);
- to publish an explanation of that element of SEN provision for children with SEN but without statements, which the LA expects normally to be met from maintained school budgets and that element of such provision that the LA expect normally to be met from central funds (Schedule to the Special Educational Needs (Provision of Information by Local Education Authorities) (England) Regulations 2001);
- The general arrangements made by the local education authority, including any plans, objectives and timescales, for:
 - (m) identifying children in their area with special educational needs;
 - (n) monitoring the admission of children with special educational needs (whether or not those children have a statement) to maintain schools in their area;
 - (c) organising the assessment of children's educational needs pursuant to section 323 of the Educational Act 1996 in the local education authority's area, including any local protocols for so doing;
 - (d) organising the making and maintaining of statements in their area, including any local protocols for so doing;
 - (e) providing support to schools in their area with regard to making special educational provision for children with special educational needs;
 - (f) auditing, planning, monitoring and reviewing provision for children with special educational needs in their area, both generally and in relation to individual children;
 - (g) securing training, advice and support for staff and governors working in their area with children with special educational needs; and
 - (h) reviewing and updating the arrangements referred to in sub-paragraphs (a) to (g).
- to have regard to the need for special educational provision to be made for those who need it, identifying and assessing those children with special educational needs which call for the LA to determine the provision that should be made for them (sections 321 and 323, EA 1996);
- to take action in relation to a request from a parent, school or early education setting to assess whether a pupil has special educational needs within statutory timescales (section 329A, EA 1996);

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- to educate a pupil for whom the LA maintains a statement of special educational needs in an ordinary school, as long as account has been taken of parents' views, and education is provided efficiently for other pupils (sections 316, 316A, 324 and Schedule 27, EA 1996);
- to notify the parent of a pupil of their right to appeal to an independent Tribunal against the LA's decision (Schedule 27, EA 1996);
- to maintain a statement and to review each statement of a pupil's special educational needs annually (section 324 and section 328, EA 1996);
- to amend statements to name a new school for children at phase transfer by 15 February in the year of transfer (Regulation 19, Education (Special Educational Needs) (England) (Consolidation) Regulations 2001);
- to assess the special educational needs of a child under the age of two if requested by the parents and make a statement of the child's special educational needs where appropriate (section 331, EA 1996);
- to advise and provide information for parents of any child in their area with special needs about matters relating to those needs by establishing a parent partnership service (section 332A, EA 1996 as inserted by section 2, SEN and DA 2001);
- to prepare, in relation to schools for which they are responsible, an accessibility strategy for increasing the extent to which pupils can participate in a school's curricula, improving the physical environments of schools to enable disabled pupils to take advantage of education and associated services, and improving the delivery of written information to disabled pupils, taking into account their needs (sections 28D and 28E, DDA 1995 inserted by sections 14 and 15, SEN and DA 2001).
- to make provision for special educational needs otherwise than in schools (section 319, EA 1996); and
- to make arrangements to enable a child with a statement to attend an institution outside England and Wales (section 320, EA 1996).
- Section 14 of the Education Act 1996 places LAs under a duty to secure sufficient schools for their area. The LA also has the duty to secure sufficient primary and secondary school places for their area.
- to prepare a School Organisation Plan showing how the LA intends to secure the provision of primary education and the provision of secondary education suitable to the requirements of pupils of compulsory school age and any facilities which the authority expect to be available outside their area that meets the needs of the population of their area (section 26, SSFA 1998);
- to ensure that school premises conform to the standards prescribed (section 542, EA 1996);
- to prepare an Asset Management Plan;
- to establish a pupil referral unit (section 19, EA 1996); and
- to formulate a co-ordinated admissions scheme covering every maintained school in their area, to ensure that, where possible, every parent receives an offer of a school place on the same day. Such schemes provide the basis for deciding which place should be offered to a

child if they are eligible for places at more than one school, after the admissions and over-subscription criteria of their preferred schools have been applied. Schemes must be introduced for all secondary and primary intakes from September 2005 onwards, but LAs may opt to introduce a secondary scheme for 2004. (See the Codes of Practice on School Admission and School Admission Appeals: SSFA 1998 as amended by section 48 EA 2002: SI 2002/2904 & 2002/2903);

- to publish information about admission arrangements for maintained schools in their area (section 92, SSFA 1998);
- to give parents in its area the opportunity to say which school they would like their children to attend (section 86, SSFA 1998);
- to keep infant class sizes under 30, except in excepted cases, with effect from the 2001-2002 school year and subsequent years (section 2, SSFA 1998);
- to meet parents' wishes for the attendance of their children at particular schools, where possible and where consistent with efficient education or the use of resources at the schools, and with the admission criteria of selective schools and any agreement on maintaining a school's distinctive character (section 86, SSFA 1998);
- to make arrangements for parents to appeal against decisions on admissions to schools (section 94 and Schedule 24, SSFA 1998);
- to make arrangements for appeals by parents against a permanent exclusion from a maintained school to be heard by a local appeal committee (section 67 and Schedule 18, SSFA 1998);
- to make arrangements for the provision of suitable education at school (including pupil referral units), or otherwise than at school, for children of compulsory school age who, by reason of illness, exclusion from school or otherwise, will not receive a suitable education without those arrangements (section 19, EA 1996). In determining what arrangements to make the LA shall have regard to any guidance given from time to time by the relevant social services department;
- where children of compulsory school age are not receiving full-time education by regular attendance at school or otherwise, serving attendance orders on parents; to institute proceedings against parents of a child who are in breach of a school attendance order or who are failing to secure the regular attendance of their child at school, having first considered whether to apply for an educational supervision order with respect to the child (sections 437, 446 and 447, EA 1996);
- to provide free transport from home to school in accordance with statutory provisions (section 509, EA 1996).
- to pay the travelling expenses of pupils (including nursery age children) for whom free transport is not provided (section 509-509A, EA 1996);
- to make arrangements, based on a written policy, to ensure that the health and safety of employees, pupils and visitors in schools are reasonably assured and that risks are minimised;
- to take such steps as necessary to prevent the breakdown, or continuing breakdown, of discipline at a maintained school (section 62, SSFA 1998); so far as is

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reasonably practicable, to ensure the health, safety and welfare of pupils on work experience;

- to provide the educational aspects of the support required for children in need, as defined by the Children's Act 1989;
- to prepare and review a plan relating to children with behaviour difficulties (section 527A, EA 1996);
- to make arrangements for encouraging and assisting pupils to take advantage of provision for medical and dental inspection and treatment (section 520, EA 1996); cleanliness of pupils (sections 521-522, EA 1996);
- to ensure the cleanliness of pupils (sections 521-522, EA 1996)
- to ensure that school meals are of an adequate nutritional standard (section 114, SSFA 1998);
- to prohibit or restrict the employment of children (section 559, EA 1996); and
- to provide board and lodging (section 514, EA 1996).