

CHAPTER 2 GENERAL DUTIES

INTRODUCTION

- 1 The Education Act requires proprietors of certain independent schools which provide accommodation for children, and other people who are responsible, such as governors, to safeguard and promote the children's welfare.
- 2 This volume provides guidance on what is expected of people responsible for the welfare of boarders in independent schools. It makes clear the areas in which the Department will wish to satisfy itself that those responsible fulfil their duties.
- 3 The chapter is in six parts:
 - a. duty of welfare,
 - b. definition of accommodation,
 - c. duty of the school,
 - d. duty of the Department of Health and Social Security,
 - e. duty of voluntary organisations, and
 - f. the role of the Department of Education.

DUTY OF WELFARE

- 4 The duty imposed by the Education Act on proprietors and school heads to safeguard and promote boarder's welfare corresponds to the Department's duty in relation to the children it looks after and the person carrying on a children's home.
- 5 All children are entitled to the protection of their welfare provided by the law. Where children are cared for away from home the steps required to ensure that they are adequately protected depend on many factors including:
 - a. their age,
 - b. their ability to look after themselves,
 - c. the length of time they are separated from their parents and

home, and

d. any special needs that they may have.

- 6 The schools and the Department should take these and similar factors into consideration when deciding what standards constitute good practice.
- 7 The Department and independent schools should always maintain good communication to ensure mutual understanding of what constitutes good boarding practice. This includes paying due attention to the wishes of parents.
- 8 The Department has a duty to satisfy itself as to the welfare of all children provided with accommodation by the school.

DEFINITION OF ACCOMMODATION

Deciding factors

- 9 The proprietor of the school and the Department must both be clear about whether:
- a. the residential accommodation provided for a pupil is in fact the responsibility of the school, or
 - b. the responsibility of another agency - for example when pupils are lodged with "landladies" or members of school staff.
- 10 The deciding factor is whether or not the school arranges the accommodation.
- a. If the school arranges the accommodation section 106A/section 48 of the Education Act 1949/2001 applies,
 - b. If the school does not arrange the accommodation other provisions of the Act apply, for example the provisions governing private fostering or registered children's homes.

Schools not covered under these regulations

- 11 Some independent schools are excluded from the scope of section 106A/48. They are:
- a. children's homes,
 - b. residential care homes.

DUTY OF THE SCHOOL

Proprietors and school heads

- 12 A proprietor is defined as the person or people responsible for the management of the school, and those, such as the head, to whom responsibility is delegated by them.

Nominated member of school staff

- 13 A member of school staff should be nominated specifically to liaise with the Department of Health and Social Security over welfare matters, in line with child protection practice. This person should have appropriate knowledge and experience. The head teacher or a senior member of staff would be expected to undertake this role.

See also Chapter 3 on standards below

DUTY OF THE DEPARTMENT OF HEALTH AND SOCIAL SECURITY

- 14 The aim is to develop and maintain sound working relationships between the Department and independent schools based on mutual respect.
- 15 The Department shall take such steps as are reasonably practicable to determine whether the children's welfare is adequately safeguarded and promoted whilst they are accommodated at independent schools.
- 16 This will include visiting schools from time to time to inspect provision and to observe practice so that the Department can assure itself that they are satisfactory.
- 17 The Department will ensure that the schools are included within the child protection procedures (*see below*).

DUTY OF VOLUNTARY ORGANISATIONS

- 18 Where a child is accommodated by a voluntary organisation or on behalf of a voluntary organisation in a children's home it is that organisation's duty to safeguard and promote the child's welfare.

ROLE OF THE DEPARTMENT OF EDUCATION

- 19 It is for the Department of Education to inspect independent schools. If The Department of Health and Social Security becomes aware of concerns about matters specifically related to educational provision they will report them to the Department of Education and inform the proprietor or head of the school that they are so doing.
- 20 The Department of Health and Social Security will make much more frequent inspections under section 106A/48 Education Act 1949/2001 than the Department of Education makes in the course of their duties, and will liaise with the Department of Education as appropriate. Similarly, the Department of Education should notify the Department of Health and Social Security when it considers care to be unsatisfactory.