

CHARGING FOR EDUCATIONAL ACTIVITIES IN LANCASHIRE SCHOOLS

Annex 4 is **not** formally approved as part of Lancashire's Scheme for Financing Schools but is issued for guidance by the Authority and included with the Scheme package for ease of convenience of reference.

CHARGING FOR EDUCATIONAL ACTIVITIES IN LANCASHIRE SCHOOLS

Preamble

This annex sets out:

- the regulatory framework relating to charging for school activities;
- a statement of Lancashire's Charging and Remissions Policy;
- some issues for Governing Bodies.

REGULATORY FRAMEWORK

Provisions relating to charging for educational activities in local authority maintained schools were originally set out in sections 106-111 and 117-118 of the Education Reform Act 1988 and are now incorporated into sections 450-462 of the Education Act 1996.

The objectives behind these charging provisions were explained in DfEE Circular 2/89 "Education Reform Act 1988: Charges for School Activities" as follows:

- to maintain the right to free school education;
- to establish that activities offered wholly or mainly during normal teaching time should be available to all pupils regardless of their parents' ability or willingness to help meet the costs;
- to emphasise that there is no statutory requirement to charge for any form of education or related activity, but to give local authorities and schools the discretion to charge for optional activities provided wholly or mainly out of school hours, for example, theatre trips or homework clubs;
- to confirm the right of local authorities and schools to invite voluntary contributions for the benefit of the school, or in support of any activity organised by the school whether during or outside school hours.

Further guidance is set out in Circular 2/89 and DfEE letter of 22 September 1993 to local authorities about charging for instrumental music tuition in maintained schools, and in the DfEE booklet "School Governors: A Guide to the Law" (revised January 2000).

LANCASHIRE'S CHARGING AND REMISSIONS POLICY

Under the legislation, the local authority is required to establish a charging and remissions policy which must be kept under review.

The local authority may charge only for such educational activities as set out in the provisions of its stated charging policy.

Every local authority must determine a remissions policy, setting out those circumstances in which charges will be remitted in whole or in part. As a minimum the remissions policy must provide for the complete remission of board and lodging charges for pupils whose parents are in receipt of certain categories of benefits if they take part in a residential visit deemed to be in school hours or are required to take part in one for prescribed examination syllabuses or national curriculum purposes.

Lancashire has established the following charging and remissions policy:-

- (a) to charge local authority maintained schools in respect of pupils attending Lancashire's own outdoor education centres, subject to 80% remission of charges on the basic programmes for those pupils whose parents are in receipt of benefits that correlate to the free school meals eligibility criteria, as set out in legislation.

The eligibility criteria for remission of these charges are aligned with the free school meals eligibility criteria. These are currently Income Support, income-based Job Seekers Allowance, support under part VI of the Immigration and Asylum Act 1999, Child Tax Credit [where the parent is not entitled to Working Tax Credit and whose annual income (as assessed by the Inland Revenue) does not exceed £13,230] and the 'Guaranteed' element of State Pension Credit.

Where schools attending Lancashire's outdoor education centres require "extras" eg more demanding outdoor pursuit activities, possibly including some form of specialist tuition, full costs are payable in respect of all pupils.

- (b) to charge Lancashire's maintained schools and, where appropriate, individual pupils for instrumental music tuition taking place in groups of up to 4 pupils;
- (c) to require Governing Bodies to establish a charging and remissions policy for their school in accordance with the legislation if they wish to charge parents for any or all of those activities for which charges are permitted, as listed below:
- activities (or "optional extras") taking place wholly or mainly outside school hours (as defined in the legislation) which are not provided as part of the syllabus for prescribed public examination and are not required in order to fulfil statutory duties relating to the National Curriculum or to religious education. Such activities may include traditional activities such as outdoor pursuits and theatre visits but may also include services provided as part of a pupil-focused extended schools programme, eg breakfast clubs, homework clubs and other activities which provide an educational benefit for pupils or services that are provided as part of a wider community programme.

The legislation operates a '50%' concept. If 50% of a non-residential activity falls outside school hours (including travelling time, but excluding mid-day break), the whole activity is deemed to be outside school hours.

For residential activities, the 50% calculation is based on the number of half days on the activity, including travel, compared with the number of half days that would have been spent at school. If the number of half-day school sessions is less than 50% of the number of half days on the activity, the whole activity is deemed to be outside school hours.

- costs associated with tuition in the playing of a musical instrument or vocal tuition, as set out in Regulations (unless this is provided as part of the syllabus for prescribed public examination or is required by the National Curriculum);
- board and lodgings on residential visits, including visits to Lancashire's own outdoor education centres, subject to the remission of board and lodgings charges for those pupils whose parents are in receipt of benefits that correlate to the free school meals eligibility criteria, as set out in legislation.
- the cost of entering a pupil for public examination not prescribed in regulations, and for preparing the pupil for such an examination outside school hours;
- re-sits of prescribed public examinations where no further preparation has been provided by the school;
- the cost of entering a pupil for a prescribed public examination where no preparation, or not further preparation in the case of resits, has been provided by the school.

NB. The cost of breakages and lost and destroyed property can be recovered. However, the Governing Body is required to have a separate charging and remissions policy on this.

- (d) to empower Headteachers and Governing Bodies to seek voluntary contributions in order to fund activities taking place wholly or mainly during school hours for which the costs cannot be met from the school's budget, provided that it is made clear to parents in writing that any contribution is voluntary and failure to contribute will not involve the relevant parent's child being treated differently from any other child in the school.
- (e) to require Headteachers and Governing Bodies to include details of the school's charging and remissions policy in the school's annual prospectus and in the Governors' annual report to parents following considering of the issue, and to keep the school's policy under regular review.

A SCHOOL'S CHARGING AND REMISSIONS POLICY

Every Governing Body must establish and keep under review a charging and remissions policy for the school which has regard to the Authority's policy statements on charging and complies with statutory requirements. A charging policy must be drawn up if the school wishes to charge parents for any activities for which charges

are permitted (see (c) above). A Governing Body's remissions policy can be more or less generous than that of the local authority provided that it meets the requirements of the legislation; for example, the Governing Body may wish to address issues arising from:

- the 20% charge for pupils whose parents are in receipt of benefits that correlate to the free school meals eligibility criteria, as set out in legislation;
- the cost for transport, additional activities etc chargeable for pupils whose parents are in receipt of benefits that correlate to the free school meals eligibility criteria, as set out in legislation;
- possible remission of other permissible charges for pupils whose parents are in receipt of benefits that correlate to the free school meals eligibility criteria, as set out in legislation;
- possible remission of other permissible charges for pupils whose parents are in receipt of benefits other than those set out above.

Guidance on the selection of pupils by the school for participation in a residential visit is set out in DfEE Circular 22/94.

Parents must be made aware that a school charging and remissions policy exists and where it, and the local authority's policy, can be consulted (a requirement of the prospectus arrangements). Parents must also be provided with information in respect of school hours.

Charges sought must not exceed the actual cost of the activity.

RE-MARKING FEES LEVIED BY AWARDING BODIES

The 2002 GCSE, GCE, VCE and GNVQ Code of Practice states that each awarding body will make a charge for use of its results enquiry service (re-marking fees).

If a school deems it to be in its own interest (and/or the interest of former pupils) to seek a remarking of certain examination papers (for example where results vary significantly from expected performance and "league" position affected), then it can do so. The school can pay the appropriate re-marking fee from the school budget share under the catch-all "for the purposes of the school". It is in effect purchasing an additional service from the awards body.

In some instances, where examination results may not vary from expected performance, the parents might deem it to be in the best interests of the child to have individual papers re-marked and approach the school (as the examinations centre) to seek a re-mark on their behalf. If the school agrees to do this, then it needs to make clear to the parent that the school is acting as an agent for the parent in obtaining an additional service from the awards body, and that the parent is responsible for any fees involved. It is not the school making this charge ... a fee is being charged by an outside professional body for an additional service rendered to an individual parent, processed through the agency of the school.

If the governing body so determine, the school's remission policy could contain a provision setting out any circumstances in which a refund of any results enquiry service fees might be considered, for example for a candidate whose result changed outside specified tolerances following a "results enquiry".

Further guidance for Governing Bodies on charging for school activities is provided by the attached extract from the DfES document "A Guide to the Law for School Governors".

CHARGING FOR SCHOOL ACTIVITIES

The following information regarding charging for school activities has been taken from the DfES booklet "School Governors: A Guide to the Law" and is reproduced here to assist schools in drawing up a School Charging and Remissions Policy.

Note: A Governing Body may not charge for anything unless they have drawn up a statement of general policy on charging and remission.

"CHAPTER SUMMARY

This chapter explains the legislation governing the charging for school activities as set out in the Education Act 1996: Sections 449–462. It covers what governing bodies may and may not charge for when activities take place, either during or outside of school hours, including residential activities. The need to have charging and remissions policies and requests for voluntary contributions is also incorporated.

EDUCATION DURING SCHOOL HOURS

1. No charge can be made for admitting pupils to maintained schools. Education provided during school hours must be free. This includes materials, equipment, and transport provided in school hours by the Local Authority (LA) or by the school to carry pupils between the school and an activity. "School hours" are those when the school is actually in session and do not include the break in the middle of the school day. It would be good practice for schools to make this information available to parents and others.
2. All three- and four-year-olds are entitled to two and a half free hours of education per day. Schools, including maintained nursery schools, can charge for any additional hours used by the child. A school's governing body can also provide community services and facilities on the school's premises (guidance is available at www.teachernet.gov.uk/extendedschools) and set up a company in accordance with powers for governing bodies set out in Section 27 of the Education Act 2002.

EDUCATION PARTLY DURING SCHOOL HOURS

3. Sometimes an activity may happen partly during and partly outside school hours. If most of the time spent on a non-residential activity occurs during school hours, that activity counts as taking place entirely in school hours and no charge may be made. (Time spent on travel only counts as being during school hours if the travel takes place during school hours.)
4. As an example, a long-distance trip might involve much travel before and after normal school hours, but if the time spent at the destination fell mainly within school hours, the trip would count as happening in school time and be free of

charge. By contrast, a trip that involved leaving school an hour or so earlier than usual in the afternoon, but then went on until quite late in the evening, would be classified as taking place outside school time. Charges would then be allowed.

EDUCATION OUTSIDE SCHOOL HOURS

5. Parents can only be charged for activities that happen outside school hours when these activities are not a necessary part of the national curriculum or do not form part of the school's basic curriculum for religious education. In addition, no charge can be made for activities that are an essential part of the syllabus for an approved examination (see paragraph 11 on public examinations).
6. Charges may be made for other activities that happen outside school hours if parents agree to pay. The Education Act 1996 describes activities that can be charged for as "optional extras". It is up to the LA or governing body providing the activities to decide whether to make a charge.

RESIDENTIAL ACTIVITIES

7. Special rules apply for residential activities. A trip counts as falling within school time if the number of school sessions missed by the pupils amounts to half or more of the number of half-days taken up by the activity. Each school day is normally divided into two sessions and each 24-hour period is divided into two half-days beginning at noon and at midnight.
8. On this basis, a term-time trip from noon on Wednesday to 9.00pm on Sunday would last for nine half-days, include five school sessions and would count as taking place in school time. A trip from noon on Thursday to 9.00pm on Sunday would count as seven half-days, include three school sessions and would be classified for charging as taking place outside school time. If fifty per cent or more of a half-day is spent on a residential trip, you should treat the whole of that half-day as spent on the trip.
9. If a residential activity takes place largely during school time, meets the requirements of the syllabus for a public examination, or is to do with the national curriculum or religious education, no charge may be made either for the education or for the cost of travel. However, charges can be made for board and lodging in these circumstances except for pupils whose parents are receiving:
 - Income Support;
 - Income-based Jobseeker's Allowance;
 - support under Part VI of the Immigration and Asylum Act 1999;
 - Child Tax Credit (providing that they are not entitled to Working Tax Credit and have an annual income, assessed by the Inland Revenue, that does not exceed £14,155 for the year 2006–7); or
 - Guarantee element of State Pension Credit.

The headteacher should advise all parents of the right to claim free activities if they are receiving these benefits.

MUSICAL INSTRUMENT TUITION

10. There is an exception to the rule about not charging for activities in school hours: charges may be made for teaching either an individual pupil, or groups of up to four pupils, to play a musical instrument. Charges may only be made if the teaching is not an essential part of either the national curriculum or a public examination syllabus being followed by the pupil(s).

PUBLIC EXAMINATIONS

11. No charges may be made for entering pupils for public examinations that are set out in Regulations. The governing body must enter a pupil for each examination in a public examination syllabus that the school has prepared the pupil for. This does not need to apply if the governing body thinks there are educational reasons for not entering the pupil, or if the pupil's parents request in writing that the pupil should not be entered. The LA may not override the governing body's decision on whether to enter a particular pupil for an examination.

An examination entry fee may be charged to parents if:

- the examination is on the set list, but the pupil was not prepared for it at the school;
 - the examination is not on the set list, but the school arranges for the pupil to take it;
 - a pupil fails without good reason to complete the requirements of any public examination where the governing body or LA originally paid or agreed to pay the entry fee.
12. Charges may not be made for any cost associated with preparing a pupil for an examination. However, charging is allowed for tuition and other costs if a pupil is prepared outside school hours for an examination that is not set out in Regulations.

ACTIVITIES NOT RUN BY THE SCHOOL OR LA

13. When an organisation acting independently of a school or LA arranges an activity to take place during school hours and parents want their children to join the activity, such organisations may charge parents. Parents must then ask the school to agree to their children being absent, just as they would if they wanted to take their children out of school for a family holiday. However, where an activity is organised by a third party and is approved by the school, is educational, or is supervised by someone authorised by the school, then it is the Department for Education and Skills's (DfES's) view that it should be treated as if it were provided by the school and no charge should be made to the parents or pupils. Such an activity, if it takes place outside the school premises, is an "approved educational activity" within the meaning of Regulation 4A(a) of the Education (Pupil Registration) Regulations 1995 (as amended).

VOLUNTARY CONTRIBUTIONS

14. Although schools cannot charge for school-time activities, they may still invite parents and others to make voluntary contributions (in cash or in kind) to make school funds go further.

All requests to parents for voluntary contributions must make it quite clear that the contributions would be voluntary. Governing bodies should also make it clear that children of parents who do not contribute will not be treated any differently. If a particular activity cannot take place without some help from parents this should be explained to them at the planning stage.

15. Where there are not enough voluntary contributions to make the activity possible and there is no way to make up the shortfall, the activity must be cancelled. The essential point is that no pupil may be left out of an activity because his or her parents cannot, or will not, make a contribution of any kind. The school must first decide which class, or group of pupils, will benefit from the activity and then look for voluntary contributions, either for that activity, or by general fund-raising.

CHARGING POLICIES

16. The LA or governing body may not charge for anything unless it has drawn up a statement of general policy on charging. The governing body's policy may be more or less generous than the LA's, as long as it meets the requirements of the law. A policy statement will take account of each type of activity that can be charged for and explain when charges will be made. If a charge is to be made for a particular type of activity, for example "optional extras", parents need to know how the charge will be worked out and who might qualify for help with the cost (or even get it free). This information should be made available to parents.
17. If a charge is made for each pupil it should not exceed the actual cost. If further funds need to be raised, for example to help in hardship cases, this must be by voluntary contributions or general fund-raising.
18. The permitted charge may include an allowance for the costs of teachers from the school who supervise the activity, but only if those teachers have been given a separate contract to provide the optional extra. A contract need not be a formal document. It could be a simple letter to a teacher asking him or her to provide a service on a particular occasion.

SCHOOL MINIBUSES

19. Only the school's pupils, staff or parents may travel at a charge in a school's minibus.
20. Schools may charge for transport in their minibuses only if they hold a permit issued under Section 19 of the Transport Act 1985. In some cases, the permit exempts the school from Public Service Vehicle (PSV) operator and driver licensing requirements. A permit is not required if no charge is made in cash or kind. Schools should apply to their LA for a permit for each minibus.

21. Schools may not raise funds to make a profit by charging for travel in their minibuses.
22. Charges may recover some or all of the costs of running the vehicle, including loss of value. But the service may not make a profit, either directly through the fares charged or incidentally as part of a profit-making activity, even if any profit would go into the school's other running costs or for charitable purposes. A charge is any payment made in cash or kind (for example a club subscription) by or on behalf of a person that gives him or her a right to be carried.
23. Further information is available from LAs or the regional Traffic Commissioners. Addresses may be found in the phone book or at www.vosa.gov.uk

THE LAW

NB: As legislation is often amended and Regulations introduced, the references made in this Guide may be to legislation that has been superseded. For an up to date list of legislation applying to schools, please refer to the GovernorNet website www.governornet.co.uk

Education Act 1996: Sections 402, 449–462

The Education (Prescribed Public Examinations) Regulations 1989: SI 1989/377

The Education (Residential Trips) (Prescribed Tax Credits) (England) Regulations 2003: SI 2003/ 381

The Education (Pupil Registration) Regulations 1995: SI 1995/ 2089 (as amended by The Education (Pupil Registration) (Amendment) Regulations 1997: SI 1997/ 2624, and by The Education (Pupil Registration) (Amendment) (England) Regulations 2001: SI 2001/2802)

GUIDANCE

Passenger transport provided by voluntary groups (Department of Transport) PSV 385 (available free from regional Traffic Commissioners whose addresses may be found in the phone book or at www.vosa.gov.uk)"